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Vol. I
TRANSCRIPT OF RECORD
(Case No. 102)

Supreme Court of the United States

OCTOBER TERM, 1945

No. 506

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**TRANSCRIPT OF RECORD
IN TWO VOLUMES.**

IN THE

Supreme Court of the United States

October Term, 1945

No.

J. R. MASON,

Petitioner,

vs.

PARADISE IRRIGATION DISTRICT,

Respondent.

VOLUME I

Pages 1 to 171

**UPON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE NINTH CIRCUIT**



No. 9925

United States
Circuit Court of Appeals
for the Ninth Circuit.

J. R. MASON,

Appellant,

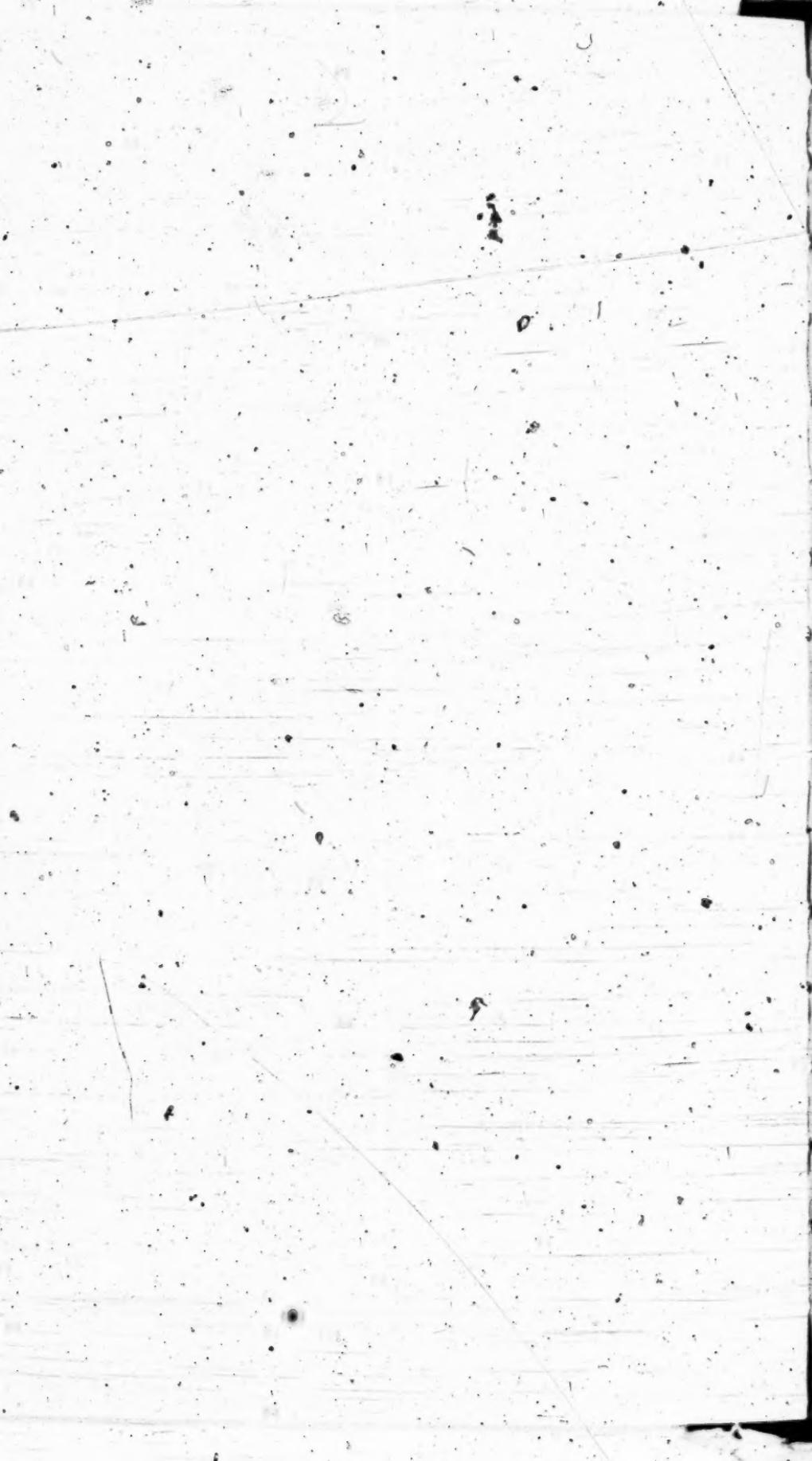
vs.

PARADISE IRRIGATION DISTRICT,

Appellee.

Transcript of Record

Upon Appeal from the District Court of the United
States for the Northern District of California,
Northern Division.



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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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Turlock, Calif.

Attorney for Appellee:

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304 Broadway,
Chico, Calif.

In the District Court of the United States for the
Northern District of the State of California

In the Matter of **PARADISE IRRIGATION
DISTRICT**

**PETITION FOR CONFIRMATION OF COM-
POSITION OR DEBT READJUSTMENT**

To the Honorable Judge of the District
Court of the United States in and for the
Above-named District:

Paradise Irrigation District, hereinafter styled
the Petitioner, shows unto Your Honor that it is
an Irrigation District, created and existing under
the laws of the State of California for the purpose
of constructing, improving, maintaining and oper-
ating certain improvements and projects devoted
chiefly to the improvement and irrigation of the
lands therein for agricultural purposes; and the
major part thereof is located in Butte County and
is within the jurisdiction of this Court. That it is

entitled to the relief offered by Chapter X of the National Bankruptcy Laws of the United States, as amended by Public No. 302, of the Seventy-fifth Congress, and approved August 16, 1937, and this petition is filed pursuant to the provisions thereof.

That on account of the adverse agricultural conditions and general depression which prevailed during the greater part of the past seven years, the market value of farm products produced [1*] within Petitioner was generally less than the cost of production; that farming operations therein have been unprofitable; and the installments of taxes and tax obligations levied upon the real property within Petitioner and falling due in such period were greater than the ability of the lands to produce, or the owners to pay. That, by reason of the inability of Petitioner to collect sufficient taxes to meet its obligations, it has been and now is insolvent and unable to meet its debts as they have matured or will mature, making it imperative that it effect a composition and readjustment of its debts pursuant to the above-mentioned Act.

That a plan for composition and readjustment of the debts of the Petitioner is filed and submitted with this petition and is hereto attached, marked Exhibit A, and made a part hereof.

That creditors owning not less than 92 per cent in amount of the bonds and other evidences of indebtedness of Petitioner and affected by the plan of composition and debt readjustment proposed herein,

*Page numbering appearing at foot of page of original certified Transcript of Record.

have accepted such plan in writing and consented to the filing of this petition, which acceptance and consent is hereto attached, marked Exhibit B, and made a part hereof.

That a list of all known creditors of Petitioner, together with their addresses, so far as known to Petitioner, and a description of their respective claims, showing separately those who have accepted the plan of composition herein mentioned, together with their separate addresses, is hereto attached, marked Exhibit C, and made a part hereof. That Petitioner, by filing the list of creditors, does not admit the validity of their claims. That all claims are payable from taxes levied against the lands within Petitioner and are of a single class.

That the Reconstruction Finance Corporation, an agency of the United States of America, has authorized a loan to [2] Petitioner in the sum of not to exceed \$252,500.00 to enable it to fully effect the plan of composition and debt readjustment as set forth in Exhibit A, hereto attached.

That the plan of composition and debt readjustment proposed herein contemplates paying and the Petitioner should be permitted to pay, the reasonable cost of maintaining and operating its system of irrigation (state kind) improvements during the pendency of this proceeding, together with the necessary court costs and a reasonable fee to counsel representing Petitioner, the amount thereof to be determined by the Court.

Wherefore, Petitioner Prays:

- (a) That the Court enter an order herein approving the petition and the filing thereof, and directing that notice of these proceedings be given to creditors as required by the Act; and
- (b) That an order be entered enjoining and restraining the institution or prosecution of any suit against Petitioner or any officer or inhabitant thereof on account of any securities affected by the plan or the enforcement of any lien, the levy of any tax or assessment, or the levying of any execution against the property of Petitioner during the pendency of this proceeding; and
- (c) That, upon the completion of the hearing of the plan, an Interlocutory Decree be entered, approving the plan and putting it into effect; and
- (d) That, upon completion of the plan of composition and debt readjustment, a final decree be entered discharging Petitioner from all debts and liabilities, in accordance with the plan; and
- (e) That the Court grant such further orders, decrees and relief in the premises as may be deemed just and equitable.

PARADISE IRRIGATION
DISTRICT
By L. P. FISHER
President

Attest:

J. B. THOMPSON
Secretary [3]

State of California,
County of Butte—ss.

L. P. Fisher, being first duly sworn, on his oath states that he is the duly elected, qualified and acting President of the Board of Directors of the Paradise Irrigation District, and that he has been duly and regularly authorized by resolution adopted by the Board of Directors of said District to prepare, execute and verify the foregoing petition; that he has read the said petition and knows the contents thereof and that the matter and things therein stated are true of his own knowledge.

E. P. FISHER

Subscribed and sworn to before me this 4th day of November, 1937.

My commission expires August 1st, 1940.

[N. P. Seal] HELEN R. HAMBURGER,

Notary Public. [4]

EXHIBIT A

RÉSOLUTION OF THE BOARD OF DIRECTORS OF PARADISE IRRIGATION DISTRICT AUTHORIZING AND DIRECTING CERTAIN OF ITS OFFICERS AND REPRESENTATIVES TO INSTITUTE AND PROSECUTE TO A FINAL DETERMINATION AN ACTION OR PROCEEDING UNDER THE NATIONAL BANKRUPTCY ACT FOR THE PURPOSE OF READJUSTING THE DISTRICT'S OUTSTANDING INDEBTEDNESS.

Whereas, the territory within the Paradise Irrigation District, located at and near Paradise, in Butte County, California, (hereinafter called "district"), consists of agricultural lands and used principally for agricultural purposes, and the district has completed and operates an irrigation system consisting of a storage reservoir, ditches and pipe lines, designed for the purpose of irrigating the lands situated therein, the cost of which was paid for out of the proceeds received from the sale of bonds issued and sold by the district for such purpose; and

Whereas, due to the general depression and adverse agricultural conditions existing throughout the United States for the last several years, and the consequent low market value of farm products, the production of farm products in this district has been without profit, the value thereof often being

less than the cost of production, with the result that the owners have been and will be unable to pay the district taxes levied upon the lands therein for the purpose of paying the district's indebtedness as and when the installments of principal and interest thereof have matured or will mature; and

Whereas, by reason of such adverse agricultural conditions and accumulated delinquent taxes, the value of the lands in the district has decreased until the lands, for all practical purposes, have become unmarketable; and [5]

Whereas, the district, without success, has made due and diligent effort to collect the taxes so levied by it upon the lands therein whereupon it became apparent that unless the outstanding indebtedness of the district was reduced and refinanced the burden of district taxes upon the lands therein would be greater than the value thereof; and

Whereas, in an effort to relieve such condition, the district applied to and was authorized a loan of not to exceed \$252,500.00 by the Reconstruction Finance Corporation, an agency of the United States Government (hereinafter called "R. F. C."), for the purpose of reducing and refinancing the outstanding indebtedness of the district, consisting of bonds in the principal amount of \$476,000.00, the first issue dated May 1, 1917, and the second dated July 1, 1920, and bearing interest at the rate of six per centum per annum, payable semiannually; and

Whereas, the basis or ratio for reducing and refinancing such indebtedness was 52.521¢ for each

dollar of the principal amount thereof, exclusive of interest, or a total of \$249,999.96 (the additional \$2,500.04 of the loan to be used, if necessary, in the payment of expenses incident to the refinancing program), which the district determined was fair and equitable to both the holders of its outstanding bonds and to the owners of the lands within the district, and its governing authority has duly adopted a resolution accepting such loan and agreeing to carry out the terms and conditions of the R. F. C. resolution evidencing same, one of which was to the effect that the loan would not be disbursed until the holders of all of the principal amount of the district's outstanding bonds had agreed to make their bonds available for refinancing in accordance with the terms and conditions of such resolution; and

Whereas, the holders of only 92 per centum of the [6] principal amount of the outstanding bonds of the district have been made so available for refinancing, thereby making it impossible for the district to consummate the R. F. C. loan unless the district institutes and prosecutes to final determination an action or proceeding in the District Court of the United States in and for the Northern District of California (hereinafter called "Court"), pursuant to the provisions of Chapter X of the National Bankruptcy Act, approved July 1, 1898, as amended by Public No. 302, Seventy-fifth Congress, approved August 16, 1937, whereby all the district's outstanding indebtedness will be read-

justed and refinanced in accordance with the plan therefor as hereinafter set forth;

Now, Therefore, Be It Resolved, by the Board of Directors of the District that the president and secretary of the Board be and they are hereby authorized and directed to institute and file an action for proceeding in the Court for the composition of its outstanding indebtedness in accordance with the following plan, to wit:

The district proposes a composition of its present outstanding indebtedness by paying the holders thereof, in cash, the sum of 52.521 cents for each dollar of the principal amount of their respective bonds, exclusive of interest; that if any bond be presented with any appurtenant interest coupon maturing on or before July 1, 1934, missing, there shall be deducted from the amount payable thereon 45.67 cents for each dollar of the face amount of such missing coupon, and if any bond be presented with any appurtenant unpaid interest coupon maturing subsequent to July 1, 1934, missing, there shall be deducted from the amount payable thereon a sum equal to the full face amount of such missing coupon. Provided, however, that where deductions are made on account of missing coupons and such missing coupons are afterward presented for payment, the holder thereof shall be paid the sum deducted from the amount payable to the holder of the bond on account of the missing coupon; that such payments will be

made from the proceeds of a loan authorized by the Reconstruction Finance Corporation and which has been or will be disbursed to or for the benefit of the district for the purpose of reducing and refinancing its indebtedness. [7]

To evidence such loan the district further proposes to issue and deliver to the Reconstruction Finance Corporation its new or refunding serial bonds in principal amount equal to the agreed amounts disbursed therefrom for the purposes mentioned, including the cost and expenses not to exceed \$2,500 incurred by the district in connection with its debt readjustment, together with 4% interest on all such disbursements from the date thereof until the new or refunding bonds evidencing same are issued and delivered to the Reconstruction Finance Corporation as authorized by an election held by the district on the 28th day of September, 1934.

The new or refunding serial bonds to be issued and delivered by the district to the Reconstruction Finance Corporation will bear interest from date until paid at the rate of 4% per annum, payable semiannually; the first installment of principal will mature three years after date thereof, and thereafter the remaining installments of principal will mature annually according to a schedule therefor which is acceptable to the Reconstruction Finance Corporation.

Or, in the alternative, the details of the above plan may be reasonably modified in such particulars as the Court deems just and proper, and as may be acceptable to the Reconstruction Finance Corporation and the president and secretary of the district.

Further Resolved, That the president and secretary of the district are jointly and severally further authorized and empowered to do all other things necessary, proper and convenient to carry into effect such plan of debt readjustment or any modification thereof as may be approved by the Court, including the employment of counsel to represent the district in such proceedings.

I, J. B. Thompson, Secretary of the Paradise Irrigation District hereby certify that the above and foregoing is a true and correct copy of resolution duly adopted by the unanimous vote of the Board of Directors of said district at a special meeting duly and regularly called and held September 27, 1937.

J. B. THOMPSON

Secretary [8]

EXHIBIT B

ACCEPTANCE OF PLAN FOR COMPOSITION AND READJUSTMENT OF INDEBTEDNESS OF PARADISE IRRIGATION DISTRICT, PARADISE, CALIFORNIA

Whereas this Corporation has purchased and now holds bonds aggregating in principal amount \$447,000 of Paradise Irrigation District, Paradise, California; and

Whereas the total of said bonds held by this Corporation as purchaser is in an amount exceeding 93% of the bonded indebtedness of said District; and

Whereas said District desires to file a petition in the United States District Court under the provisions of Sections 81, 82 and 83 of an Act of the Congress of the United States entitled "An Act to Establish a Uniform System of Bankruptcy throughout the United States", approved July 1, 1898, as amended, in order to effect a plan for composition and readjustment of its outstanding indebtedness; and

Whereas the Board of Directors of said District adopted a plan for composition and readjustment of its outstanding indebtedness on the basis and including the terms and conditions as follows:

The district proposes a composition of its present outstanding indebtedness by paying the holders thereof, in cash, the sum of 52.521 cents for each dollar of the principal amount of their

respective bonds, exclusive of interest; that if any bond be presented with any appurtenant interest coupon maturing on or before July 1, 1934, missing, there shall be deducted from the amount payable thereon 45.67 cents for each dollar of the face amount of such missing coupon, and if any bond be presented with any appurtenant unpaid interest coupon maturing subsequent to July 1, 1934, missing, there shall be deducted from the amount payable thereon a sum equal to the full face amount of such missing coupon. Provided, however, that where deductions are made on account of missing coupons and such missing coupons are afterward presented for payment, the holder thereof shall be paid the sum deducted from the amount payable to the holder of the [9] bond on account of the missing coupon; that such payments will be made from the proceeds of a loan authorized by the Reconstruction Finance Corporation and which has been or will be disbursed to or for the benefit of the district for the purpose of reducing and refinancing its indebtedness.

To evidence such loan the district further proposes to issue and deliver to the Reconstruction Finance Corporation its new or refunding serial bonds in principal amount equal to the agreed amounts disbursed therefrom for the purposes mentioned, including the cost and expenses not to exceed \$2,500 incurred by the district in connection with its debt readjustment, together with 4% interest on all such disburse-

ments from the date thereof until the new or refunding bonds evidencing same are issued and delivered to the Reconstruction Finance Corporation as authorized by an election held by the district on the 28th day of September, 1934.

The new or refunding serial bonds to be issued and delivered by the district to the Reconstruction Finance Corporation will bear interest from date until paid at the rate of 4% per annum, payable semiannually; the first installment of principal will mature three years after date thereof, and thereafter the remaining installments of principal will mature annually according to a schedule therefor which is acceptable to the Reconstruction Finance Corporation.

Or, in the alternative, the details of the above plan may be reasonably modified in such particulars as the Court deems just and proper, and as may be acceptable to the Reconstruction Finance Corporation and the president and secretary of the district.

Whereas such plan for composition and readjustment appears to be fair, just and reasonable, and adopted in good faith on the part of such District, and has been approved by the Division Chief or Acting Chief of the Drainage, Levee and Irrigation Division and Counsel for this Corporation; and

Whereas its adoption by Reconstruction Finance Corporation appears advisable;

Now, Therefore, by reason of the foregoing facts, and on [10] the recommendation of the Division Chief or Acting Chief, such proposed plan for composition and readjustment submitted by the Board of Directors of Paradise Irrigation District, Paradise, California, be and hereby is approved and accepted by Reconstruction Finance Corporation.

And Reconstruction Finance Corporation consents that such District may file its petition for composition and readjustment of its indebtedness in the United States District Court, as provided by the Act of the Congress entitled "An Act to Establish a Uniform System of Bankruptcy throughout the United States", approved July 1, 1898, and Acts amendatory thereto.

In Witness the execution of this acceptance this 28th day of October, 1937.

**RECONSTRUCTION FINANCE
CORPORATION**
By RONALD H. ALLEN /s/
Assistant Secretary [11]

EXHIBIT C

LIST OF CREDITORS AND ADDRESSES

The following is a list of all known creditors of the petitioner, together with their addresses so far as known to petitioner, and a description of their respective claims, and shows separately those who have accepted the plan of composition mentioned.

in the foregoing petition, together with their separate addresses:

(1). J. R. Mason, whose address is 1920 Lake Street, San Francisco, California, is the owner of the following bonds of the par value of \$1,000.00, and has not accepted the composition, said bonds being described as follows:

First issue:

Bond Numbers:

170

171

257

258

293

Second issue:

23

24

25

35

36

81

82

94

95

96

97

98

106

107

108

109

110 [12]

(2). Mrs. Eugenia M. Masten, c/o Jack O. Miller, First National Trust and Savings Bank, San Diego, California, also c/o J. R. Mason, 1920 Lake Street, San Francisco, California (Mrs. Eugenia M. Masten is the mother-in-law of the creditor J. R. Mason). Mrs. Eugenia M. Masten is the owner of the following bonds of the par value of \$1,000.00, and has not accepted the composition, said bonds being described as follows:

Second issue:

Bond Numbers:

46

47

(3). James H. Jordan Company, whose address is 200 Loring Block, Riverside, California, is the owner of the following bonds of the par value of \$1,000.00, and has not accepted the composition, said bonds being described as follows:

First issue:

Bond Numbers:

93

94

95

96

97

(4). The Reconstruction Finance Corporation, Washington, D. C., is the owner of all the remaining bonds of petitioner, having a face

value of \$447,000.00, and said Corporation has consented and accepted the plan of composition mentioned in the foregoing petition.

[Endorsed]: Filed Dec. 20, 1937. Walter B. Maling, Clerk. [13]

[Title of District Court and Cause.]

ANSWER OF J. R. MASON

Comes now J. R. Mason, hereinafter referred to as respondent, and for answer to the petition of said Paradise Irrigation District for debt readjustment filed herein, objects to the plan for readjustment of debts proposed in, referred to in, or filed with said petition, and without consenting thereto, admits, denies and alleges as follows:

I.

That said respondent is now and long since prior to the filing of said petition was a creditor of said district, the petitioner herein, towit: the owner and holder of certain of the unpaid bonds of said district referred to in petitioner's petition herein, and hereinafter more particularly described, together with unpaid interest coupons attached to or originally attached to said bonds, both said bonds and said interest coupons being hereinafter more particularly referred to; that said bonds of said district so owned and held by respondent were and each of them was for valuable consideration sold and issued

for the purpose of constructing or purchasing necessary irrigation canals or works, or acquiring necessary property and right thereof, or for the purpose of acquiring waters, water rights, reservoirs, reservoir sites or other property necessary for the purpose of said district, or to provide for drainage made necessary by irrigation provided for by said district, or to provide for the construction, acquisition, operation, leasing or control of plants for generation, distribution, sale or lease [14] electrical energy or for a combination of two or more of such purposes, by the terms of each of which the said district promised and agreed to pay to bearer the principal amount thereof on the due date therein named, together with interest at the rate of interest as specified in said coupons, payable semiannually on the 1st day of January and the 1st day of July of each year after the date of said bond until the due date thereof, and that each of said semi-annual interest payments on each of said bonds is represented by a coupon attached or originally attached to said bond to which it relates, by the terms of which said district promised and agreed to pay to bearer on the date therein named the amount of interest represented thereby; that said bonds and interest coupons and respondent are directly and adversely affected by the plan of debt readjustment proposed in said petition.

II.

That said respondent is the owner of bonds of said district as described in its petition herein, in the

aggregate amount of \$29,000, and each of which said bonds have attached thereto or originally had attached thereto interest-bearing coupons, as provided by said issues and which matured semi-annually, as aforesaid, commencing July 1, 1936, to the present time, and have been respectively presented for payment to the treasurer of said district and payment thereof refused.

III.

That the amount which petitioner seeks to have deducted or credited upon the payment to be made herein by reason of the absence of certain coupons from the bonds is an unjust and unfair provision for the reason that all of said coupons referred to have been paid by the district voluntarily and in the ordinary course of business, and the petitioner well knows that they are in the custody of said district or have been destroyed by it or its officers. [15]

IV.

Denies that petitioner is unable to collect sufficient taxes to meet its obligations; denies that it has been and now is insolvent or unable to meet its debts as they have matured or will mature.

V.

Denies that creditors owning not less than 92% in amount of the bonds and other evidences of debt of the petitioner affected by the plan of composition of debt readjustment have accepted such plan in writing or consented to the filing of the petition, and

referring particularly to Exhibit B attached to the petition, respondent denies that Reconstruction Finance Corporation is a creditor of the district affected by the plan adversely, but alleges that said corporation is beneficially affected by the plan, and further denies that the said corporation has purchased or owns bonds aggregating \$447,000, or any other amount of the said Paradise Irrigation District, and in this connection respondent is informed and believes, and upon such information and belief alleges that heretofore Reconstruction Finance Corporation has loaned to petitioner, and petitioner has borrowed from Reconstruction Finance Corporation, the sum of approximately \$225,000, with which said district has paid bonds of petitioner in the aggregate principal amount of \$447,000, and that the total debt obligation of petitioner at the present time consists of said loan from Reconstruction Finance Corporation, plus the bonds owned by respondent.

VI.

Denies that the list of creditors of petitioner, set forth as Exhibit C, is inaccurate and incorrect.

VII.

Denies that the claims of creditors of petitioner are of a single class. [16]

VIII.

Alleges that said plan of readjustment is not fair, equitable, nor for the best interests of the creditors

of the district. Furthermore, the offer of the plan is not made in good faith.

IX.

Said plan is not fair because other bondholders having bonds against the same geographical area are not required to scale down their debts, and because mortgage holders and deed of trust holders are not required to scale down their debts, such mortgage holders and deed of trust holders holding mortgages upon lands within the geographical area of the petitioner; because the payment of assessments is but a small fraction of the annual costs of the landowners in the production and marketing of farm commodities from their lands; because farming conditions as to costs of production and marketing and prices of farm commodities are now fairly stable; and because the debt of said district has been substantially reduced by the loan made by the Reconstruction Finance Corporation.

X.

Alleges that this court is without jurisdiction to entertain the petitioner's petition and the plan of readjustment filed therewith or to hear or determine this cause because this proceeding and the bankruptcy act under which this proceeding is brought, being Public No. 302, approved August 16th, 1937, is unconstitutional and void and affects the property rights of this respondent for the following reasons, to-wit:

1. Under Section 8, Article I of the Constitution of the United States, Congress has power to pass uniform laws on the subject of bankruptcy throughout the United States, and said Act is not a uniform law on the subject of bankruptcy throughout the United States.
2. That under said act private property may be taken [17] for public use without just compensation, contrary to the provisions of Amendment V of the Constitution of the United States, and the petitioner's petition and the plan of readjustment filed therewith propose to take respondent's property without just compensation.
3. That under the Constitution of the United States and the plan of government set forth therein, the Federal Government is a government of delegated powers, and no power has been delegated to Congress to pass legislation such as said Act of Congress, being Sections 81 to 84, inclusive, of the Bankruptcy Act of 1898, regulating the rights of citizens, and particularly this respondent, against the states or state governmental agencies in the manner therein provided.
4. That said act was passed in violation of the reserved rights of states of the United States as guaranteed to the states by Article X of the Federal Constitution, and because the passage of said act is a violation of the rights of citizens, and particularly these respondents, guaranteed and reserved to them by Amendment X to the Constitution.

5. Said act attempts to subject state governmental agencies to the jurisdiction of federal courts contrary to the plan and scheme of government, as set out in the Constitution of the United States.

6. Said act in other respects violates the Constitution of the United States.

Wherefore, respondent prays that petitioner take nothing by its alleged petition; that said petition and these proceedings be dismissed, and that respondent recover his costs.

W. COBURN COOK

Attorney for Respondent J. R.
Mason [18]

State of California,
County of Stanislaus—ss.

J. R. Mason, being first duly sworn, says:

That he is the respondent named in the foregoing Answer; that he has read said Answer and knows the contents thereof; that the same is true of his own knowledge, except the matters therein stated on information and belief, and as to those matters he believes it to be true.

J. R. MASON

Subscribed and sworn to before me this 9th day of March, 1938.

(Seal) **LESTER H. SHOCK**

Notary Public in and for the County of Stanislaus,
State of California.

[Endorsed]: Filed Mar. 10, 1938. Walter B.
Maling, Clerk. [19]

[Title of District Court and Cause.]

PROOF OF CLAIM

J. R. Mason, being first duly sworn, says:

That he is a creditor of Paradise Irrigation District, the petitioner herein, and that he is the owner and holder of the following described bonds of said district; to wit: bonds numbered 93, 94, 95, 96, 97, 170, 171, 257, 258, 293 of the first issue, and bonds numbered, 23, 24, 25, 35, 36, 46, 81, 82, 94, 95, 96, 97, 98, 106, 106, 108, 109 and 110 of the second issue, each of the par value and sum of \$1000.00; and that of said bonds some have matured, to-wit: bonds numbered 23, 24 and 25, in the principal sum of \$3000.00, which said bonds matured July 1, 1937, and were presented for payment to the Treasurer of Paradise Irrigation District when they became due and payment demanded, and that the same are wholly unpaid and that the said matured bonds bear interest at the rate of 7% per annum from date of such presentation, and that said creditor has not been notified that funds are available for payment thereof; that each of said bonds bear interest at the rate of 6% per annum, evidenced by interest coupons payable on January 1st and July 1st of each year; that said J. R. Mason is the owner of all of the coupons attached to said bonds, of which coupons in the amount of \$3390.00 have matured and were presented to the treasurer for payment, together with interest thereon at the rate of 7% per annum from date of presentation to date of pay-

ment; that affiant by this proof of claim does not submit himself to the jurisdiction of this court except for the special purpose of objecting to the jurisdiction of this court.

J. R. MASON

Subscribed and sworn to before me this 9th day of March, 1938.

LESLIE H. SHOCK

Notary Public, Stanislaus County, California. [21]

Affidavit of mailing copy to Jerome D. Peters attached hereto.

[Endorsed]: Respondents No. 23. Filed 3-20-39.
Harry L. Fouts, D. C.

[Endorsed]: Filed Mar. 10, 1938. Walter B. Maling, Clerk. [22]

[Title of District Court and Cause.]

**FINDINGS OF FACT AND CONCLUSIONS
OF LAW**

The petition heretofore filed herein by Paradise Irrigation District for confirmation of a plan of composition of its outstanding bonded indebtedness came on duly and regularly for hearing before this court on the 16th day of March, 1939, said District being represented by Jerome D. Peters, Esq., and J. R. Mason, a creditor of the District, having filed herein a motion to dismiss and an answer to said petition and objections to said plan of composition,

the said J. R. Mason having since the filing of the petition of the District purchased and acquired all of the bonds which were owned at the time of the filing by Mrs. Eugenia M. Masten, and those owned by the James H. Jordan Company, and said J. R. Mason being represented at said hearing by his attorney, W. Coburn Cook, Esq., and evidence, both oral [26] and documentary having been submitted in support of and in opposition to said petition of Paradise Irrigation District, and its plan of composition set forth therein, and the hearing having been completed, and the cause having been duly argued, briefed, and submitted to the court and duly considered, and the court having upon November 18, 1940, made and filed its order that the plan of composition of Paradise Irrigation District be confirmed upon findings of fact and conclusions of law to be filed, and the court now being fully advised in the premises, hereby makes findings of fact and conclusions of law with respect to the matter of Paradise Irrigation District; hereinafter sometimes called "petitioner" as follows, to-wit:

FINDINGS OF FACT

I.

That petitioner, Paradise Irrigation District, is and has been since the date of its organization, to-wit, the 7th day of March, 1916, an irrigation district, duly organized and existing under and by virtue of the provisions of the

and that it was organized and created for the purpose of constructing, improving, maintaining and

operating certain improvements or projects devoted chiefly to the improvement of lands therein for agricultural purposes by supplying water for the irrigation of said lands; that the indebtedness affected by the plan of composition referred to in said petition, is payable out of assessments levied against and constituting liens upon property within the boundaries of petitioner, or out of water tolls levied against the owners of lands within the district [27] using water upon said land or out of property acquired by foreclosure of any such assessments and/or water tolls which have been added to the assessment upon lands by reason of the nonpayment thereof, or from any other or more or all of said sources; that said Paradise Irrigation District is an eligible petitioner within the terms and meaning of Public No. 302, enacted by the 75th Congress and approved August 16, 1937, constituting an amendment to the uniform bankruptcy laws of the United States, and acts amendatory thereto and supplemental thereto, and that the petition herein was filed pursuant to the provisions of Chapter 10 thereof.

II.

That petitioner comprises approximately 11,000 acres of land, all of which is in the County of Butte, State of California, and in the Northern Division of the Northern Judicial District of the State of California and within the territorial jurisdiction of this court.

III.

That proof of due publication and mailing of notice to the creditors as heretofore ordered by this court, has been duly filed; that such notice was first published as required by law and the order of this court and that copies thereof were duly mailed to each creditor of petitioner, named in said petition, at the address of each such creditor given in said petition, *at the address of each such creditor given in said petition*, said address being the last known post office address of each creditor, at least sixty days before the date fixed for the hearing of said petition, and said notice specified the manner in which the claims and interests of creditors should be filed or evidenced; that said notice has been duly and regularly given in the time, form and manner as required by law and the [28] order of this court, and that said petition and all objections thereto have been duly and regularly heard.

IV.

That the filing of the petition herein by petitioner was authorized by proper resolution, duly adopted and passed by the Board of Directors of petitioner prior to the filing thereof, and that the fees required by law have been duly paid.

V.

That the petitioner was insolvent and unable to meet its debts as they matured, and was desirous of effecting a plan of composition of its outstand-

ing bonded indebtedness, and that at the time it made its offer of composition to the owners of its outstanding bonded indebtedness and at the time of filing of its petition herein for confirmation of its plan of composition, at the time of the hearing herein as aforesaid, and at all intervals between said times, petitioner was insolvent and unable to meet its debts as they matured. That the bonded indebtedness of petitioner, concerning which in these proceedings it desires to effect a plan of composition, consists of bonds in the total unpaid principal amount of \$476,000.00 and the unpaid interest due thereon. That said outstanding bonds of petitioner are described as follows, to-wit:

\$350,000.00 principal amount of bonds constitute the First Issue of said District, and consist of bonds of the denominations of \$1000.00 and \$500.00, all dated May 1st, 1917, and bear interest at the rate of 6% per annum, payable semi-annually on the 1st day of January and July of each year, with principal payable serially from May 1, 1938 to May 1, 1957, both dates inclusive. The bonds of said First Issue in the principal amount of \$350,000.00 are now outstanding and unpaid.

\$126,000.00 principal amount of the bonds constitute the [29] Second Issue of said district, and consist of bonds of the denomination of \$1000.00, all dated July 1st, 1920, and bear interest at the rate of 6% per annum, payable semi-annually on the first day of January and July of each year, with principal payable serially from July 1st, 1924 to July

1st, 1956, both dates inclusive. The bonds of said Second Issue in the principal amount of \$126,000.00, are now outstanding and unpaid.

That all of said bonds have been duly issued under the provisions of

approved , and acts amendatory thereof and supplemental thereto, which said Act, together with the act of the legislature of the State of California, approved June 19, 1931, Statutes of 1931, page 2263, as amended, provided for the method of levying assessments by the District upon the lands located therein for the purpose of paying the principal amounts of, and interest on said bonds and for other purposes.

VI.

That petitioner did, heretofore, by resolution duly adopted by its Board of Directors on the 27th day of September, 1937, duly propose and adopt a plan of composition of its outstanding indebtedness, and that said plan of composition is set forth in the resolution attached to said petition as Exhibit "A" and by reference incorporated therein and made a part thereof. That said plan of composition as set forth in said resolution is as follows, to-wit:

"The district proposes a composition of its present outstanding indebtedness by paying the holders thereof, in cash, the sum of 52.521 cents for each dollar of the principal amount of their respective bonds, exclusive of interest; that if any bond be presented with any appurtenant interest coupon maturing on or before July 1,

1934, missing, there shall be deducted from the amount payable thereon 45.67 cents for each dollar of the face amount of such missing coupon, and if any bond be presented [30] with any appurtenant unpaid interest coupon maturing subsequent to July 1, 1934, missing, there shall be deducted from the amount payable thereon a sum equal to the full face amount of such missing coupon. Provided, however, that where deductions are made on account of missing coupons and such missing coupons are afterward presented for payment, the holder thereof shall be paid the sum deducted from the amount payable to the holder of the bond on account of the missing coupon; that such payments will be made from the proceeds of a loan authorized by the Reconstruction Finance Corporation and which has been or will be disbursed to or for the benefit of the district for the purpose of reducing and refinancing its indebtedness.

To evidence such loan the district further proposes to issue and deliver to the Reconstruction Finance Corporation its new or refunding serial bonds in principal amount equal to the agreed amounts disbursed therefrom for the purposes mentioned, including the cost and expenses not to exceed \$2,500 incurred by the District in connection with its debt readjustment, together with 4% interest on all such disbursements from the date thereof until the new or

refunding bonds evidencing same are issued and delivered to the Reconstruction Finance Corporation as authorized by an election held by the district on the 28th day of September, 1934.

The new or refunding serial bonds to be issued and delivered by the district to the Reconstruction Finance Corporation will bear interest from date until paid at the rate of 4% per annum, payable semiannually; the first installment of principal will mature three years after date thereof, and thereafter the remaining installments of principal will mature annually according to a schedule therefor which is acceptable to the Reconstruction Finance Corporation.

Or, in the alternative, the details of the above plan may be reasonably modified in such particulars as the Court deems just and proper, and as may be acceptable to the Reconstruction Finance Corporation and the president and secretary of the district."

VII.

That the payments to be made as provided in said plan of composition are the full amount which petitioner is able to pay on its aforesaid indebtedness. That said plan of composition as proposed and offered herein by petitioner is fair, equitable and for the best interests of its creditors and does not discriminate unfairly in favor of or against any creditor, or creditors, or class of creditors; that said

plan of composition [31] complies with the provisions of the National Banking Act of the United States and of all of the provisions of Public No. 302, enacted by the 75th Congress, approved August 16, 1937. That before the filing of the petition herein, said plan of composition was accepted and approved in writing by and on behalf of creditors of petitioner owning more than 51% in amount of the securities effected by said plan, excluding, however, any such securities owned, held, or controlled by the petitioner; that at the time of filing of the petition herein, said plan of composition had been accepted and approved in writing by or on behalf of the owner of more than 92 $\frac{1}{2}$ % of the aggregate amount of securities or claims of all classes effected by such plan, excluding, however, any securities or claims owned, held or controlled by the petitioner; that of the \$476,000.00 of indebtedness evidenced by such outstanding bonds of the District, the owner of \$447,000.00 of such securities consented to said plan, and the owners of \$29,000.00 did not consent; that the bonds last mentioned, the owners of which did not consent to said composition plan, are as follows, to-wit:

First Issue; bond numbers;

93,

94,

95,

96,

97,

170,
171,
257,
258,
293.

Second Issue, bond numbers:

| | | |
|-----|-----------|------|
| 23, | 82, | 108, |
| 24, | 94, | 109, |
| 25, | 95, | 110. |
| 35, | 96, | |
| 36, | 97, | |
| 46, | 98, | |
| 47, | 106, | |
| 81, | 107, [32] | |

That said plan of composition at the time of the filing of the petition herein and now has been accepted in writing by or on behalf of such class of creditors holding more than 2/3 of the aggregate amount of claims of all classes effected by said plan, and which have been admitted by the petitioner or allowed by the Judge of this court, but excluding claims owned, held or controlled by the petitioner; that in all respects said plan has been accepted and approved as required by the provisions of Section 83 of Chapter 10 of Public 302, enacted by the 75th Congress and approved August 16, 1937; that all amounts to be paid by the petitioner for services or expenses incidental to the composition have been fully disclosed and are reasonable; that the offer of

said plan and its acceptance, as aforesaid, are in good faith; and that the petitioner is authorized by law to take all action necessary to be taken by it to carry out the plan.

VIII.

That prior to the filing of the petition, the Reconstruction Finance Corporation, an agency of the United States, pursuant to contract with petitioner, purchased at the composition rate aforesaid and became the owner of, and ever since has owned, held and controlled, and now owns, holds and controls, over .92% in amount of the outstanding bonds and other evidence of indebtedness of the petitioner effected by the plan of composition and debt readjustment proposed herein. The Reconstruction Finance Corporation, prior to the filing of the petition, had purchased and owned, held and controlled bonds of the petitioner aggregating in principal amount \$447,000.00; that said Reconstruction Finance Corporation is a creditor of petitioner in the amount of the full face value of said bonds and the interest due thereon so purchased, owned, held and controlled by it. That there are no bonds or other securities or other evidences of indebtedness owned, held, [33] or controlled by said petitioner District. That before the filing of the petition herein, said Reconstruction Finance Corporation in writing accepted the plan of composition hereinbefore set forth, and its acceptance is attached as Exhibit "B" to the petition herein and made a part thereof and reference thereto therein.

IX.

That all of the indebtedness of petitioner effected by said plan of composition is payable by the petitioner District without preference and out of funds derived from the same source or sources, and all of the creditors of petitioner District effected by said plan of composition constitute but one class. That no creditor of the petitioner District, other than the holders of said outstanding bonds and interest coupons due thereon, is effected by said plan of composition.

X.

That all the allegations and averments set forth in said petition for confirmation of the plan of composition of petitioner's outstanding bonded indebtedness are true; and that all the denials of said petition set forth in the answers of objectors are untrue.

That upon the 8th day of December, 1936, the District paid to J. R. Mason upon the non-assenting bonds hereinabove set forth, interest in the sum of \$1077.66, and upon January 5, 1937, interest upon said bonds in the sum of \$1958.29, making a total of \$5035.95.

XI.

That respecting the plea of res adjudicata filed by J. R. Mason, the only objector herein, the court finds as follows:

That heretofore on the 21st day of December, 19 [redacted], petitioner herein filed in this court its petition for debt [34] readjustment under and pursuant to

the provisions of paragraphs 78 to 80 of the Bankruptcy Act added by Act May 24, 1934, 11 U. S. C. A., Sections 301 to 303. That by said proceeding, petitioner sought to confirm a plan of readjustment of its outstanding bonded indebtedness, which is the same substantially as the plan submitted in the present proceeding. That on May 25, 1936, the Supreme Court of the United States decided the case of *Ashton v. Cameron County Water Improvement District*, 298 U. S. 513, 80 L. Ed. 1309, wherein said court held that said act of Congress approved May 24, 1934, Chapter 345, and designated as Sections 78, 79 and 80 of the Bankruptcy Act of the United States, was unconstitutional. That thereafter, pursuant to notice of memorandum to dismiss theretofore filed with this court by certain objecting creditors, on the ground that the decision of the Supreme Court of the United States in said Ashton case aforesaid, rendered this court without jurisdiction in said proceeding, this court did on October 28, 1936, grant said motion of said objecting creditors to dismiss said proceeding. That no trial or judgment on the merits of said amended petition filed by petitioner, pursuant to said Act of Congress approved May 24, 1934, Chapter 345, and designated as Sections 78, 79 and 80, of the Bankruptcy Act of the United States was ever had. That this Court finds that said proceeding so dismissed was based upon a law holding null and void, and which conferred no jurisdiction upon the court, and that there was no trial or judgment on the merits in said

proceeding. That this court finds that the proceeding now before this court, based upon an entirely different law and one which does confer jurisdiction upon this court, and that petitioner herein is not barred in this proceeding by res adjudicata, or otherwise. [35]

CONCLUSIONS OF LAW

As conclusions of law from the foregoing facts the court finds and concludes:

I.

That the plan of composition of the bonded indebtedness of Paradise Irrigation District of Butte County, California, should be approved and confirmed, and the motion to dismiss the petition of petitioner should be denied.

II.

That petitioner is entitled to an interlocutory decree and judgment approving and confirming said plan of composition as proposed and presented and contained in said petition, and as specifically set forth in paragraph VI of these findings, to which latter paragraph reference is hereby particularly made and which plan as therein set forth is hereby incorporated in these conclusions.

III.

That said interlocutory decree should provide that all the outstanding bonds of petitioner as itemized and enumerated in the petition in this cause,

or in the schedules annexed thereto and made a part thereof, and as specifically set forth in these findings of fact and conclusions of law, are of one and the same class and are payable without preference out of funds derived from the same source or sources and are hereby allowed as obligations of the petitioner, whether presented or not, and that the several holders thereof are entitled to ratably participate in the distribution of the funds in accordance with the plan of composition and the decrees of the court.

IV.

That said interlocutory decree should provide for [36] authority for petitioner to immediately issue and sell its refunding bonds to the Reconstruction Finance Corporation in amounts required to pay the incidental expenses of these proceedings, not to exceed \$2500.00, and to pay a sum equal to 52.521 cents on the dollar of the principal amount of its outstanding bonds (not purchased by the Reconstruction Finance Corporation) and to repay the Reconstruction Finance Corporation, the money expended by it for the purchase of the old bonds of the petitioner as herein provided, with interest on disbursements from such purchases at 4% per annum from date thereof, and shall further provide that such old bonds so purchased by the Reconstruction Finance Corporation will be thereupon cancelled and returned to petitioner, and should provide further that such refunding bonds so issued and sold by petitioner to the Reconstruction Finance Corpora-

tion are valid obligations of the District, and shall not at any time be effected by the plan of composition or these proceedings.

V.

That said interlocutory decree should also provide a disbursing agent of this court, with whom petitioner shall deposit the sum necessary to pay the holders of its outstanding bonds, other than bonds which shall have been purchased by the Reconstruction Finance Corporation as in the decree provided and that the holders of such outstanding bonds shall therein be required to deposit such bonds with all unpaid interest coupons attached with the disbursing agent before payment is made; that if any bonds are so deposited with any unpaid interest coupons due on or before July 1st, 1934, missing, the disbursing agent shall make a deduction from the amount to be paid therefor in a sum equal to 45.67 cents, for each dollar of the face amount of such missing coupons; if any bonds be deposited with any unpaid [37] interest coupons maturing after July 31, 1934, missing, a deduction shall be made from the amount to be paid therefor equal to the full face value of the missing coupons. Said decree shall also provide for the payment of such coupons missing from deposited bonds with a time prescribed in such decree.

VI.

Said interlocutory decree shall also provide for the payment of bonds which may not be deposited

as ordered by the court in such decree, and shall likewise provide for the publication of notice to the holders of outstanding bonds directing their deposit within the time set in said decree and shall also provide for the rights of the Reconstruction Finance Corporation in relation to the old bonds purchased by it until the refunding bonds of the District in satisfactory form have been delivered by the petitioner to such Corporation.

VII.

Said interlocutory decree shall also enjoin holders of outstanding bonded indebtedness of the District from attempting the enforcement or collection of the same in any manner pending the entry of the final decree herein.

VIII.

Said interlocutory decree shall fix and tax against petitioner the costs and expenses of these proceedings, which shall include a reasonable attorney fee,

in a sum not to exceed \$2500.00; that the agreement between petitioner and the Reconstruction Finance Corporation, is, that the latter will advance to the district the costs and expenses of the composition proceedings, including a reasonable attorney fee, all not to exceed \$2500.00, and for which in event the advance is made, petitioner will issue and deliver to the Reconstruction Finance Corporation bonds of its new issue for purposes of composition, in the amount of [38] the advance, and similar to those to be issued and delivered to said corporation for money advanced to effect the composition proposed; that in fact the district has expended in excess of \$2500.00, for costs and expenses, including a reasonable attorney fee, in the composition proceedings, the amount thereof being so expended to date the sum of \$3634.77, an itemized statement of which is as follows:

| | |
|---|------------|
| Orrick, Palmer & Dahlquist, R. F. C. Bond counsel | \$ 544.23 |
| Printing re-financing bonds | 180.00 |
| Election supplies | 123.65 |
| Expense of bond election | 196.65 |
| Printing escrow papers, Bank of America | 49.49 |
| Bank of America escrow fee | 825.07 |
| H. S. Clewett, attorney fee | 1,000.00 |
| Witness fees | 49.26 |
| K. C. Gagan, Court Reporter | 71.42 |
| Jerome D. Peters, attorney fee | 595.00 |
| Total | \$3,634.77 |

That said interlocutory decree shall fix and tax against petitioner the costs and expenses of the composition proceedings, including a reasonable attorney fee, all not to exceed the sum of \$2500.00.

IX.

That upon compliance with the interlocutory decree, petitioner shall be entitled to a final decree as provided by law.

Dated this 3rd day of February, 1941.

HAROLD LOUDERBACK,

Judge of the United States District Court, Northern District of the State of California.

[Endorsed]: Filed Feb. 3, 1941. Walter B. Maling, Clerk. [39]

In the District Court of the United States for the Northern District, of the State of California

Federal Court No. 7703

In the Matter of
Paradise Irrigation District

INTERLOCUTORY DECREE

This cause came on this day before me to be heard upon application of Paradise Irrigation District for confirmation of its plan of composition of indebtedness, heretofore filed in this Court, and the Court having heard the testimony as presented by the respective parties, together with the argument of counsel, and being fully advised in the premises, finds as follows:

I. That the petitioner is an irrigation district duly organized and existing under the laws of the State of California, and is an eligible petitioner

within the terms and meaning of Public No. 302, enacted by the Seventy-fifth Congress and approved August 16, 1937 (constituting an amendment to the uniform bankruptcy laws of the United States and acts amendatory thereof and supplemental thereto), and that the petition herein was filed pursuant to the provisions thereof.

II. That petitioner is located in Butte County, [40] California, and within the territorial jurisdiction of this Court; that proof of publication of the notice of creditors heretofore ordered by this Court has been duly filed; that such notice was first published as required by law and the order of this Court upon December 30, 1937 in The Chico Record, a newspaper of general circulation published in the City of Chico, County of Butte, State of California, within the jurisdiction of this Court, and was published therein once a week for three successive weeks, and that said notice was also first published upon the 31st day of December, 1937 in the Pacific Coast Edition, The Wall Street Journal, which is a newspaper of general circulation among bond dealers and bond holders, and is published in the State of California, and that said notice was published therein once a week for three successive weeks, and that copies of said notice were duly mailed to each of the creditors at their last known post office addresses at least sixty days before the date for this hearing.

III. That the filing of the petition herein was authorized by proper resolution duly passed and

adopted by the Board of Directors of the petitioner prior to the filing thereof, and that the fees required by the act hereinbefore mentioned were duly paid.

IV. That the petitioner is insolvent or unable to meet its debts as they mature and desires to effect a plan for the composition of its debts; that the plan of composition as offered by the petitioner herein is fair, equitable and for the best interest of its creditors, and does not discriminate unfairly in favor of any creditor or class of creditors; that the plan of composition of debts complies with the provisions of Section 83, Chapter X, of the Bankruptcy Act of 1898, as amended, and has been accepted and approved in writing by or on behalf of creditors holding at least 92 per centum of the aggregate amount of claims [41] of all classes affected by such plan, and which have been admitted by the petitioner and allowed by the Court, excluding claims owned, held or controlled by petitioner; that all amounts to be paid by petitioner for services or expenses incidental to the composition of its indebtedness have been fully disclosed and are reasonable and that the offer of the plan and its acceptance are in good faith and petitioner is authorized by law upon confirmation of the plan to take all action necessary to carry out the terms thereof.

V. That since the filing of petition of petitioner, the debts listed in the petition as owing to the creditor Mrs. Eugenia M. Masten and to the creditor James H. Jordan Company and the bonds listed

therein as being owned by her and said Company, have been sold, transferred and assigned to the creditor J. R. Mason, and the said creditor J. R. Mason is now the owner and holder thereof, and of all the bonds listed in the petition, as owned by them.

It is, therefore, ordered, adjudged and decreed as follows:

1. That the plan of composition of the debts of Paradise Irrigation District of Butte County, California, be and the same is hereby approved and confirmed.
2. That all of the outstanding bonds of petitioner as itemized and enumerated in the petition in this cause, or in the schedules annexed thereto and made a part thereof, are of one and the same class, are payable without preference out of funds derived from the same source or sources, and are hereby allowed as obligations of the petitioner, whether presented or not, and that the several holders thereof are entitled to ratably participate in the distribution of the funds in accordance with the plan of composition and the decree of this Court as hereinafter provided. [42]

3. That in order to provide the funds necessary to pay the incidental expenses and to pay for the outstanding bonds of the petitioner as contemplated by the plan of composition aforesaid and the orders of this Court, petitioner is hereby authorized to forthwith duly issue and sell its refunding bonds to the Reconstruction Finance Corporation in

amounts required to pay such incidental expenses, not to exceed \$2500.00, and to pay the sum equal to 52.521 cents on the dollar of the principal amount of its outstanding bonds (not purchased by the Reconstruction Finance Corporation), and to repay the Reconstruction Finance Corporation the money expended by it for the purchase of the old bonds of the petitioner as herein provided, with interest on all disbursements for such purposes at 4% per annum from date thereof. That the old bonds so purchased by the Reconstruction Finance Corporation will thereupon be cancelled and returned to petitioner and that each and all of said refunding bonds so issued and sold by petitioner to the Reconstruction Finance Corporation, as provided herein, are hereby declared to be valid obligations of such district and shall not at any time be affected by the plan of composition, or these proceedings.

4. That during the pendency of these proceedings the Reconstruction Finance Corporation is authorized to purchase from the holders thereof any of the outstanding bonds of petitioner upon the following terms and conditions, to-wit: The Reconstruction Finance Corporation to pay in cash the sum of 52.521 cents on each dollar of the principal amount of the outstanding bonds, paying nothing on interest, and deducting from the amounts payable the sum of 45.67 cents on each dollar of the face amount of any missing coupons maturing on or before July 1, 1934, and if any of such bonds have any appurtenant unpaid interest coupons [43] ma-

turing subsequent to July 1, 1934, that are missing, there should be deducted from the amount payable thereon a sum equal to the full face amount of such missing coupons, provided, however, that where deductions are made on account of missing coupons and such missing coupons are afterwards deposited for payment, within the time prescribed by this decree, namely, within thirty days after receipt by the disbursing agent of the money with which to retire the same, as hereinafter provided, the holder thereof shall be paid the sum deducted from the amount payable to the holder of the bond on account of the missing coupons. That when purchased, as provided in this paragraph, the old bonds shall be delivered to the Reconstruction Finance Corporation and held by it as security for the funds furnished by it for such purpose, with interest thereon at 4% per annum until such time as it receives from petitioner its refunding bonds for such disbursements and interest, or petitioner may pay such interest and deliver bonds for the principal.

5. That the petitioner deposit with the Bank of America National Trust and Savings Association, a National banking association, Chico Branch, in the City of Chico, County of Butte, State of California, as disbursing agent of this court, the sum necessary to pay the holders of its outstanding bonds, other than bonds which shall have been purchased by the Reconstruction Finance Corporation as herein provided, 52.521 cents on the dollar of the unpaid principal amount thereof, excluding all in-

terest due or to become due, and the holders of said bonds be and they are hereby required to deposit said bonds with all unpaid interest coupons attached with the disbursing agent before payment is made as herein provided; that if any bonds are so deposited with any unpaid interest coupons due on or before July 1, 1934, missing, the disbursing agent shall make a deduction from the amount to [44] be paid therefor, in a sum equal to 45.67 cents for each dollar of the face amount of such missing coupons, and if any bond be deposited with any unpaid interest coupons maturing after July 1, 1934, missing, deductions shall be made from the amount to be paid therefor equal to the full face value of the missing coupons. In case any deductions are made on account of missing coupons, and such coupons are afterwards deposited within the time prescribed by this decree, there shall be paid to the holder of such missing coupons the amount deducted therefor; that when payment shall have been made for the old bonds and coupons as provided in the plan of composition and this decree, the disbursing agent shall mark said bonds and coupons so paid "Cancelled" and return them to the petitioner.

6. That in the event any of the old bonds and interest coupons are not surrendered to the disbursing agent within thirty days after receipt by such agent of the money with which to retire the same, then the proportionate sum to which the holders thereof may be entitled under the plan of

composition and terms of this decree, shall be paid by the disbursing agent to the clerk of this Court as Registrar, and thereafter paid by him to the holders of such bonds in accordance with the provisions of this decree and such further decrees of this court as made in reference to the payment of such bonds.

7. That a copy of this judgment be served upon W. Coburn Cook, attorney of record in these proceedings for and in behalf of J. R. Mason, being the sole owner of bonds of the district effected by the plan of composition herein approved who has not consented to the plan of composition, such service to be either personally or by mail, and that service upon said attorney by either method will constitute and be notice to the said J. R. Mason, said sole owner of bonds of the district not consenting [45] to said plan of composition, that he is required to deposit any and all bonds of the petitioner with the disbursing agent above named within the thirty day period hereinafter provided or thereafter with the clerk of this Court for payment in accordance with this decree or be forever barred from claiming or asserting as against petitioner or any individually owned property located within petitioner district or the owners thereof any claim or lien arising out of said bonds; provided, however, that nothing contained herein shall preclude the Reconstruction Finance Corporation from asserting its rights and claims under the old bonds so purchased by it to the extent and amount so expended in acquiring the same, with interest thereon at the rate of 4% per

annum, until petitioner shall have delivered to the Reconstruction Finance Corporation its refunding bonds in form satisfactory to said Reconstruction Finance Corporation in the aggregate amount equal to the money so expended in acquiring such old bonds, with interest.

That said disbursing agent, said Bank of America National Trust and Savings Association, Chico Branch, upon receipt of the money with which to pay the composition sum to the said J. R. Mason, the sole owner of bonds of the district not assenting to the district's plan of composition as herein approved, shall give notice either personally or by mail to W. Coburn Cook, Esq., attorney of record for the said J. R. Mason, of the receipt of said money with which to pay said composition sum, which notice shall contain a further provision that under and by virtue of the terms of this decree the said J. R. Mason has thirty days thereafter in which to present his bonds to said disbursing agent for payment in accordance with the plan of composition herein approved.

8. That after the expiration of thirty days from the [46] date of receipt of the funds to carry out the terms of the plan of composition and retire the outstanding indebtedness as provided in such plan, the disbursing agent shall make full and complete report to this Court for confirmation, including an itemized statement of all receipts and disbursements together with a list of old bonds outstanding at the time of such report, showing serial number of and amount of each outstanding unpaid bond.

9. That any and all holders of the outstanding indebtedness of petitioner district be and are hereby enjoined, pending the entry of final decree herein, from attempting the enforcement or collection of any claim, judgment or lien, by legal proceedings or otherwise, which they may have against petitioner or against any of the lands situated within petitioner district and held by individuals.

10. That the cost and expenses of these proceedings, including a reasonable attorney's fee to petitioner's attorney for services in these proceedings, be taxed against the petitioner herein in the sum of \$2500.00.

11. That, upon the provision of this interlocutory decree being fully complied with, petitioner receive a final decree as provided by law.

Done, ordered and decreed in the above entitled court in Chambers in the City of Sacramento, State of California, this 3rd day of February, 1941.

HAROLD LOUDERBACK,
Judge of the United States District Court, Northern
District of the State of California.

[Endorsed]: Filed Feb. 3, 1941. Walter B. Maling, Clerk. [47]

[Title of District Court and Cause.]

NOTICE OF ENTRY OF JUDGMENT
To J. R. Mason, Contestant, and to W. Coburn
Cook, Attorney for Contestant:

You and each of you will please take notice that the above entitled court entered its interlocutory

judgment in the above matter upon the 3rd day of February, 1941, a true copy of which interlocutory judgment is hereto attached, and is hereby made a part hereof.

Dated this 6th day of February, 1941.

JEROME D. PETERS,

Attorney for Petitioner Paradise Irrigation District. [48]

[Endorsed]: Filed Feb. 7, 1941. Walter B. Mal-ing, Clerk. [50]

[Title of District Court and Cause.]

NOTICE OF APPEAL

To the Circuit Court of Appeals for the Ninth Circuit (Under Rule 73):

Notice is hereby given that J. R. Mason, creditor of Paradise Irrigation District and respondent in this cause, hereby appeals to the Circuit Court of Appeals for the Ninth Circuit from the Interlocutory Decree Confirming Plan of Composition entered in this action on February 3rd, 1941, the same being the Interlocutory Decree Confirming Plan of Composition entered after the hearing upon the plan of composition and from the whole thereof.

Dated: March 4, 1941.

W. COBURN COOK,

Attorney for Appellant
Berg Building
Turlock, California

[Endorsed]: Filed Mar. 8, 1941. Walter B. Mal-ing, Clerk. [51]

[Title of District Court and Cause.]

STATEMENT OF POINTS ON APPEAL AND ASSIGNMENT OF ERRORS.

The appellant states that the points on which he intends to rely on appeal in this cause and the errors which he avers occurred at the trial and determination of this proceeding and the rendering of the decree appealed from are the following:

1. The trial court had no jurisdiction of the cause nor of the parties.
2. The plan of composition herein is unfair, inequitable and unjust and is not for the best interests of the creditors and it discriminates unfairly against the appellant.
3. The plan does not comply with the provisions of Chapter IX of the Bankruptcy Act of the United States.
4. The offer of the plan and its acceptance are not in good faith.
5. The Paradise Irrigation District at the time of the filing of this petition and of the hearing and of the entry of the decree was not or is not insolvent nor unable to pay its debts as they mature.
6. The evidence adduced at the hearing was insufficient to sustain the petition. [52]
7. The court erred in classifying the creditors as one class.
8. The court erred in entering the decree herein taking vested rights of the appellant.
9. The court erred in approving and confirming the plan of composition.

10. The plan of composition discriminates unfairly against J. R. Mason, appellant.
11. The court erred in confirming the decree as to J. R. Mason and in not holding that he should not be made subject to the plan of composition.
12. The plan of composition violates the 5th Amendment to the Constitution of the United States by taking appellant's property and giving it to others without compensation.
13. The court erred in not finding the facts specially.
14. The court erred in that the findings do not determine what the assets or liabilities of the Paradise Irrigation District are while finding that the district is insolvent.
15. That the plan of composition is not fair or equitable and that it is discriminatory in that it does not provide for the payment in full of the claim of J. R. Mason, appellant.
16. That the court erred in not stating the Findings of Fact and Conclusions of Law separately.
17. The plan of composition is unfair in that no allowance of counsel fees is made for appellant's counsel.
18. The plan of composition violates the provisions of Section III, Public No. 669, 76th Congress.
19. The court erred in that the court did not carefully examine all the contracts, proposals, acceptances, deposit agreements, and all other papers relating to the plan, specifically for the purpose of ascertaining if the fiscal agent, attorney, or other

person, firm or corporation promoting the composition, [53] or doing anything of such a nature, has been or is to be compensated directly or indirectly by both the petitioner and the creditors thereof or any of said creditors—either by fee, commission or other similar payment, or by transfer or exchange of bonds or other evidence of indebtedness whereby a profit could accrue—or make a sufficient examination under oath to make certain whether or not any such practice obtained or might have obtained.

20. That the court erred in that it did not make an adjudication of the issues mentioned in the foregoing assignment of errors as a separate part of his interlocutory decree, and erred in that it did not forthwith dismiss the proceedings on the grounds that such practice was possible and, in fact, prevails, although the appellant had specifically requested the court to examine into the possibility of such practice.

21. The plan of composition violates local law and the carrying out of the plan is not authorized by local law.

22. The plan is unfair, inequitable and discriminatory and proposed by the district in bad faith inasmuch as the appellant was paid certain coupons voluntarily by the district and the district now seeks to penalize the appellant by deducting from the composition offer the amount formerly voluntarily paid to him.

23. The plan of composition is unfair and discriminatory because the Bondholders' Protective

Committee was favored over the appellant in that on one of the coupons he was paid \$10 and the Committee was paid \$40. Furthermore, the Committee received compensation from the district and there was no showing as to what compensation if any was received by the Committee from the bond-holders.

24. The plan of composition is unfair because the bulk of the bonds mature in the future.

25. The plan of composition should not have been approved because there was no complete financial statement or [54] accounting made to the court or showing as to the available assets in comparison to the liabilities and the court made no findings thereon.

26. It was not established that two-thirds in amount consented to the plan of composition nor that any other amount of the securities involved in the plan of composition consented.

27. The claims were not properly classified because the appellant and the Reconstruction Finance Corporation have claims in different amounts.

28. The plan of composition should not have been approved because the appraisal made by the Reconstruction Finance Corporation which was a basis for the composition offered was not before the court nor examined nor disclosed to the court.

29. The plan of composition is unfair because it offers one creditor refunding bonds but denies refunding bonds to the appellant and because in-

terest was paid to the Reconstruction Finance Corporation which was denied to the appellant.

30. The plan of composition is presented in bad faith and it is inequitable because coupons which were fully satisfied and paid were delivered to the Reconstruction Finance Corporation and no deduction made from the amount paid the Reconstruction Finance Corporation for such liquidated coupons.

31. The court erred in entering the interlocutory decree since the same is uncertain and unintelligible in that it cannot be determined therefrom, whether the appellant is to be penalized for the amounts paid to him on his coupons and on the other hand if the decree be interpreted as so penalizing him the plan is unfair.

32. The plan of composition is not presented in good faith because after having proposed a plan of composition in 1934 or 1935 to the creditors the district voluntarily paid to the appellant large sums of money in satisfaction and liquidation [55] of certain matured coupons, which constituted abandonment of the plan of composition and subsequently it proposes a new plan of composition which seeks to penalize the appellant for the voluntary payments made. If therefore the former plan is the one presented it has been abandoned. If a new plan is presented, then there is discrimination in relation to the Reconstruction Finance Corporation.

33. The plan is unfair because in the words of counsel for the district "There should be credited against the sums to be obtained by the respondent the value of the interest coupon of July, 1934, namely, the sum of \$30.00, and which coupons were purchased by the district from the respondent in 1934 for the sum of \$10 cash." This shows a lack of good faith since the district seeks to penalize Mason \$20 on each of such coupons when they have already obtained their surrender for \$10 each.

34. The plan is unfair and in bad faith because under it appellant is required to repay interest he received for 1934, 1936 and 1937 but large sums of interest paid to the R. F. C. are not deducted from the amount it will receive.

35. The appellee failed to comply with Rule 22 of the District Court of Appeal.

36. The plan is not in good faith because the district had a feasible plan by which five years of interest were voluntarily surrendered at a reduced rate.

37. The plan has been wholly executed out of court.

Wherefore, appellant prays that the decree of the District Court appealed from shall be reversed.

Dated: May 3, 1941.

W. COBURN COOK,

Attorney for Appellant.

[Endorsed]: Filed May 5, 1941. Walter B. Mal-ing, Clerk. [56]

[Title of District Court and Cause.]

DESIGNATION OF CONTENTS OF RECORD ON APPEAL

The appellant designates the following as those parts of the record as necessary for the consideration of the points upon which the appellant intends to rely in this appeal:

1. Petition for Confirmation of Composition or Debt Readjustment.
2. Answer of J. R. Mason.
3. Proof of Claim of J. R. Mason and Reconstruction Finance Corporation.
4. Reporter's Transcript of Proceedings and Testimony.
5. The following portion of Petitioner's Exhibit No. 1; Down to Paragraph I; paragraph IV (d), (e), the first sentence in (h), the fourth paragraph on Page 11; paragraph VII with annexed schedules; paragraph VIII (e); and the whole of Page 36.
6. Petitioner's Exhibit No. 2, 3 (i), 3 (j), 4, 5, 7, 10 and 11.
7. Certain portions of Petitioner's Exhibit No. 8, namely: Commencing second paragraph of Page 2, down to line 12, Page 3; commencing last paragraph Page 13 through paragraph numbered 3, Page 27; Pages 44, 45, 49 through 53, and Page 57. [58]
8. Respondent's Exhibits Numbered one, 2, 3, 5, 10, 14, 16, 17, 23, 24, 25 and A Ident.

9. Findings of Fact and Conclusions of Law with proof of compliance with Rule 22 of District Court of Appeal and endorsement of approval or disapproval, if any.
10. Interlocutory Decree with proof of compliance with Rule 22 of District Court of Appeal and endorsement of approval or disapproval, if any.
11. Notice of entry of judgment.
12. Minute Order of Court on date of hearing.
13. Notice of Appeal with Clerk's entry of mailing endorsed thereon.
14. Stipulations and Orders made subsequent hereto.
15. Statement of Points on Appeal and Assignment of Errors.
16. This designation of contents of record on appeal.

Dated: May 2, 1941.

W. COBURN COOK,

Attorney for Appellant.

[Endorsed]: Filed May 5, 1941, Walter B. Maling, Clerk. [59]

[Title of District Court and Cause.]

DESIGNATION BY APPELLEE OF ADDITIONAL PORTIONS OF RECORD, PROCEEDINGS, AND EVIDENCE TO BE INCLUDED IN RECORD ON APPEAL

The Appellee designates the following as those portions of the record as necessary for the con-

sideration of the points that will arise upon said appeal, in addition to the designation heretofore made by the appellant, as follows, to-wit:

1. Petitioner's Exhibit No. 1.
2. Petitioner's Exhibits No. 3-2, 3-d, 3-e, 3-f
3-h.
3. Pages 1 and 2 of Petitioner's Exhibit No. 8, commencing on the 2nd paragraph on page 27 of Petitioner's Exhibit No. 8, to the last paragraph on page 38; pages 47 and 48; pages 54 to and including page 56 and including "Exhibit h" being entitled "Resume of Annual Reports of the District", which appears between said pages 54 and 56, and is page 55.
4. Respondent's Exhibit No. 4; No. 19 and No. 21."
5. This designation constitutes appellee's designation of additional portions of the record, proceedings and evidence it desires included in the record on appeal, in addition to such designated by appellant in its "Designation of Contents of Record on appeal."

JEROME D. PETERS

Attorney for appellee

Affidavit of service by mail on W. Coburn Cook attached hereto.

[Endorsed]: Filed May 9, 1941, Walter B. Mal-
ing, Clerk. [60]

[Title of District Court and Cause.]

In the above cause it is ordered that the time for filing and docketing record on appeal taken by the appellant from the interlocutory decree confirming plan of composition is extended to and including May 17, 1941.

Dated: April 18th, 1941.

HAROLD LOUDERBACK
Judge.

[Endorsed]: Filed Apr. 18, 1941. Walter B. Maling, Clerk. [63]

[Title of District Court and Cause.]

In the above cause it is ordered that the time for filing and docketing record on appeal taken by the appellant from the interlocutory decree confirming plan of composition is extended to and including June 6, 1941.

A. F. ST. SURE
Judge.

[Endorsed]: Filed May 13, 1941. Walter B. Maling, Clerk. [65]

[Title of District Court and Cause.]

NARRATIVE STATEMENT OF EVIDENCE

The following is a narrative statement of the evidence and testimony presented before the United States District Court, in and for the Northern

District of California, Hon. Harold Louderback, Judge, presiding at the hearing of the petition for composition of debt adjustment of the Paradise Irrigation District on March 17, 1939. Jerome D. Peters, Esq., appearing for Petitioner, and W. Coburn Cook, Esq., appearing for the Respondent, J. R. Mason, owning \$29,000 principal bonds of Petitioner.

It was stipulated that at the time the district authorized application for a loan to the Reconstruction Finance Corporation, herein called R.F.C., there were two issues of bonds of the District outstanding—the first being the issue of 1917 bearing 6% interest per annum, payable semi-annually, upon the first days of January and July, with maturities ranging from 1938 to 1957 and in the principal amount of \$350,000. The second issue was dated July 1, 1920, bearing 6% interest, payable similarly, with maturities ranging from 1925 to 1956, principal amount, \$126,000, making total bond issues of \$476,000. On December 18, 1933, the Board of Directors of the district [66] authorized an application for a loan to be made to the R.F.C.; THE PURPOSE OF THE APPLICATION AS STATED THEREIN WAS FOR THE PURPOSE OF SECURING MONEY TO REFINANCE THE OUTSTANDING BONDED INDEBTEDNESS OF THE DISTRICT; a copy of said application was received in evidence as Petitioner's Exhibit 1; upon May 22, 1934, the R.F.C. adopted a resolution authorizing such loan TO ENABLE THE DISTRICT TO RE-

DUCE AND REFINANCE ITS OUTSTANDING INDEBTEDNESS, PURSUANT TO THE PROVISIONS OF SECTION 36, PART 4 OF THE EMERGENCY FARM ACT OF 1933, AS AMENDED; a copy of said resolution was introduced in evidence as Petitioner's Exhibit 2.

PETITIONER'S EXHIBIT No. 1

Petitioner's Exhibit 1 was application for loan made to the Reconstruction Finance Corporation by the Paradise Irrigation District dated December 18th, 1933, giving a history of the district and stating in its preamble:

"Paradise Irrigation District, an irrigation district duly organized and existing under and by virtue of the laws of the State of California, hereby makes application for a loan for the purpose of refinancing its outstanding bonded indebtedness, * * * * *

The application further stated that the landowners of the district are largely composed of people who, prior to the general financial depression possessed a certain amount of property or income from other sources and as long as these sources of income were unimpaired the landowners as a whole were in fairly secure financial condition. But few if any of them possessed any considerable means. There are comparatively few farms in the district which have been as yet developed to the place where they are commercial enterprises, the great majority of the farms

consisting of young orchards just beginning to come into bearing. Due to the general lack of employment and the closing down or curtailing of operations of the industries in the vicinity, and the general shrinking in value and curtailment or elimination or complete loss of outside investments, the financial condition of the landowners has become very acute. Up until the commencement of the present financial depression there had been no particular difficulty in meeting the payments required, although it was becoming more burdensome as the principal maturities increased, and even without the financial crisis the time would undoubtedly have been reached when it would have been impossible to meet the heavy principal maturities under the present setup.

A large majority of the landowners are operating their properties upon a subsistence homestead basis, that is, [96] they have established homes and developed their property along the line of obtaining from the land itself as large a proportion as possible of the living for the family, but depending to a large extent upon employment in outside industries.

Due to the heavy bonded indebtedness of the district the bankers and financial institutions have adopted the policy of refusing mortgages, with few exceptions, and as a result there are comparatively few encumbrances against the property, and such as there are are largely held by private individuals having local connections.

(e) County Taxes

That the following is a statement of the average assessed valuation per acre of land for county and school district taxes for the past five years. (No ad valorem state taxes are levied on real estate in California.)

| | Average assessment Value per acre | Percentage of assessment to fair market val. | Tax Rate |
|------|--------------------------------------|--|----------|
| 1929 | \$19.53 | 30 per cent | \$4.42 |
| 1930 | 17.84 | 30 per cent | 4.23 |
| 1931 | 19.76 | 30 per cent | 4.50 |
| 1932 | 19.64 | 30 per cent | 4.015 |
| 1933 | 18.26 | 30 per cent | 2.965 |

The application further stated that "as a whole the physical condition of the project is in good shape."

\$70,000 of the second issue of bonds were sold to J. R. Mason & Co. and M. H. Lewis of San Francisco, at \$97 and accrued interest per \$100 net to the district.

The application further gave a history of the default in interest and negotiations with the Bondholders Protective Committee, and stated the proposal for the issuance of refunding bonds offered as security for the loan, and stated:

"Interest Default. On July 1st, 1932, interest in the sum of \$14,340.00 fell due. The money in the Bond Interest Fund at that time was insufficient to pay said interest in full and interest coupons were paid as provided by the California Irrigation District Act in the

order in which they were presented as long as money was available, and the remaining coupons of that maturity were registered as presented and the registered coupons paid off as fast as money become available for that purpose. All of the July 1st, 1932, coupon maturities have been paid except approximately \$1250.00, and there is impounded in the First National Bank of Chico under said receivership sufficient money in the Bond Interest Fund to pay in full all of the remaining July 1st, 1932 interest coupons if and when said funds are received [97] from the receiver of said bank.

A like interest payment of \$14,340.00 fell due on January 1st, 1933 and on July 1st, 1933. In the spring of 1933 a Bondholders Protective Committee was formed, more fully referred to hereafter, and an agreement has been entered into between the district and the Bondholders Protective Committee under which the committee has agreed to accept payment at the rate of two per cent. per annum instead of six per cent. on all interest coupons controlled by them maturing in 1933 and 1934, and pursuant to this arrangement the district has paid to the Bondholders Protective Committee money to take up all interest coupons maturing January 1st, 1933, and under said agreement are required to pay the July 1st, 1933 coupons about January 1st, 1934, and present indications are that it will be possible for the district to meet these

interest payments under the agreement with the said committee."

"(c). The Bondholders Committee have made a considerable investigation of the affairs of the district and have determined not to ask at this time for a deposit of bonds but have asked for a deposit of interest coupons maturing in 1933 and 1934, and we are advised by the secretary of the Bondholders Committee that coupons of those maturities have either been actually deposited or the holders thereof have signified their agreement to cooperate with and abide by the decision of the committee, representing about seventy-five per cent. of the total outstanding bonds, and that they are in touch with most of the remaining bondholders and believe that practically all of them will abide by any decision which may be reached by the committee, and we anticipate no serious difficulty in reaching a fair basis of adjustment with the committee and all bondholders."

There followed financial statements prepared from the books of the district: [98]



PARADISE IRRIGATION DISTRICT
ASSETS AND LIABILITIES, comparative as of
December 31, 1929 to 1932, and November 30, 1933

ASSETS

| | 1929 | 1930 | 1931 | 1932 | Nov. 30 1933 |
|---|------------|------------|------------|------------|-----------------|
| Cash in treasury | | | | | |
| General Fund | 3,210.45 | | | | -1,782.60 |
| Bond Fund | 10,127.37 | | | | 3,573.13 |
| Construction Fund | 26,815.78 | | | | 9,500.00 |
| Materials, Staves & wire, for repairs to pipe | 40,153.60 | 29,676.05 | 22,348.11 | 17,408.31 | 14,855.73 |
| Equipment, Office furnishings | 150.00 | 150.00 | 150.00 | 150.00 | 1,000.00 |
| Transit and level | 1,019.97 | 1,019.97 | 1,019.97 | 1,019.97 | 1,019.97 |
| Auto; trucks (2) rdstr. | 485.00 | 485.00 | 485.00 | 485.00 | 485.00 |
| Concrete Mixer (1923) | 852.58 | 1,102.58 | 900.00 | 505.00 | 305.00 |
| Pump & Motor (1929) | 365.00 | 365.00 | 365 | 365 | 365 |
| Shop Equip. & Tools | 1,800.00 | 1,800.00 | 1,800.00 | 1,800.00 | 1,800.00 |
| | 200.00 | 200.00 | 200 | 200 | 200 |
| Buildings, Office | 3,722.55 | 4,972.55 | 4,769.97 | 4,374.97 | 4,174.97 |
| —with vault (1922) | 1,809.12 | 1,809.12 | 1,809.12 | 1,809.12 | 1,809.12 |
| Land | 125.00 | 125.00 | 125.00 | 125.00 | 125.00 |
| Shop (1922-1923) | 300.00 | 500.00 | 500.00 | 500.00 | 600.00 |
| Fixed Capital | 2,234.12 | 2,434.12 | 2,434.12 | 2,434.12 | 2,534.12 |
| Magalia reservoir | 176,918.67 | 179,909.29 | 179,909.29 | 179,909.29 | 179,909.29 |
| Main Canal | 26,936.82 | 26,936.82 | 26,936.82 | 26,936.82 | 26,936.82 |
| Signal System | 351.57 | 351.57 | 351.57 | 351.57 | 351.57 |
| Distribution System | 244,535.29 | 244,535.29 | 244,535.29 | 244,535.29 | 244,535.29 |
| | 448,742.35 | 451,732.97 | 451,732.97 | 451,732.97 | 451,732.97 |
| Total tangible property | 496,002.62 | 488,965.59 | 481,435.17 | 476,101.37 | 474,297.79 |

LAND AND ASSESSMENT LIENS

| | | | | | |
|--|-----------|-----------|-----------|-----------|-----------|
| Certificates of sale, prior years deeded 2667 A. | 38,000.00 | 51,000.00 | 67,400.00 | 67,400.00 | 67,400.00 |
| Assessments Receivable 1932—4865 Acres | | | 31,182.66 | 19,297.75 | |
| Assessments receivable 1933 (delinq.) | | | | 16,035.24 | |
| Water tolls receivable (Dec. 26, 1933) | | | | | 461.70 |

LIABILITIES

| | 350,000.00 | 350,000.00 | 350,000.00 | 350,000.00 | 350,000.00 | Matured |
|---|------------|------------|------------|------------|------------|-----------------------|
| Unmatured Bonded Indebtedness | | | | | | |
| First issue | 350,000.00 | 350,000.00 | 350,000.00 | 350,000.00 | 350,000.00 | |
| Second issue | 134,000.00 | 131,000.00 | 129,000.00 | 127,000.00 | 125,000.00 | |
| Matured bonds unpaid | | | | 1,000.00 | 3,000.00 | |
| Second issue | 30.00 | 120.00 | 9,285.00 | 60.00 | 1/1/32 | |
| Bond interest matured unpaid | | | | 2,160.00 | 7/1/32 | |
| | | | | 14,340.00 | 1/1/33 | |
| | | | | | 14,340.00 | 7/1/33 |
| | | | | | | 30,900.00 |
| Warrants—none | | | | | | |
| Accounts payable—negligible | | | | | | 9,177.00 Pd. on'acct. |
| Interest accrued on registered bond coupons—not accounted | | | | | | 21,723.00 Par value |
| | 484,000.00 | 481,030.00 | 479,120.00 | 487,285.00 | 499,723.00 | |

Note: Property listed at original cash cost except automobile and small equipment; Magalia reservoir, dam, canal, shown at actual cost of construction with subsequent improvements, charges for bond discount and interest on registered warrants eliminated.
 Distribution system consists principally of wood stave pipe line, original cost only of labor, materials, and engineering is shown; much work in later years has been paid from current funds, maintenance and replacement has restored 22% of the pipe lines to a condition deemed better than when first installed.
 Allowance for depreciation is not a legal charge in an irrigation district in California, and none has been accounted.

Certified by John Brereton, Public Accountant, December 14, 1933.



VIII.**(e) Water Shut Off for Nonpayment of Bills.**

Prior to the year 1933 this district did not make any charge for water used, all monies for the operation of the district being raised by ad valorem taxes, and water was distributed to the landowners based upon the amount of their taxes as provided in Section 18 of the California Irrigation District Act.

Commencing with the irrigation season for the year 1933, the district for the first time adopted a system of water tolls; and during that season water was shut off on 196 acres of land because of non-payment of tolls. Toll charges were paid and service restored to all except 102 acres of this land, and at the present time 102 acres within the district are shut off because of non-payment of water tolls.

The application concluded:

State of California,
County of Butte—ss.

H. S. Clewett makes oath and says that he is the secretary of Paradise Irrigation District; that he has carefully examined each and all of the statements contained in the foregoing application and in the exhibits and other data attached thereto or submitted therewith; that such statements are true and correct to the best of his knowledge and belief; that such ap-

plication is made with the approval and at the direction of the board of directors of said applicant, as appears by resolution duly adopted at a meeting thereof, a certified copy of which is attached to such application, said meeting having been held at Paradise, California, on the 18 day of December, 1933, and that he is the person who has been authorized by such resolution to execute said application.

H. S. CLEWETT

Subscribed and sworn to before me, a Notary Public in and for the state and county above named, this day of December, 1933.

(N. P. Seal) ELSIE B. HAMBURGER

Notary Public in and for the County of Butte,
State of California.

My commission expires June 12, 1936.

PETITIONER'S EXHIBIT 2

The Petitioner's Exhibit 2 was a resolution of the Reconstruction Finance Corporation adopted May 22nd, 1934, granting a loan to the district in a sum not exceeding \$252,500, providing for the deposit of the old bonds, making provisions for [99] payments on the loan, reports to the Reconstruction Finance Corporation, and other things, and contained the following:

"Whereas this Corporation has caused an appraisal to be made of the property securing

or underlying the Old Securities and has determined that the project of the District is economically sound, and now desires to make a loan to enable said District to reduce and re-finance all or by far the greater part of such Existing Debt on the basis of payments to holders of its Old Securities, or to Committees or other representatives of such holders, at the rates herein set forth.

Now, therefore, be it

Resolved, that there is hereby authorized a loan of not exceeding \$252,500.00, to or for the benefit of said District, subject, however, to the following terms and conditions:

3. Payments on Deposited Securities. The amounts to be loaned by this Corporation hereunder shall be sufficient to provide for payments of different amounts of money on account of the Deposited Securities, as follows:

(a) 52.521 cents for each dollar of principal amount of Deposited Securities, provided that all of the Old Securities shall have been deposited at the time when this Corporation makes its first loan hereunder.

(b) 52.521 cents for each dollar principal amount of such Deposited Securities, in case the District is unable to procure the deposit of all of such Old Securities but shall procure the deposit of such large proportion thereof as shall be required or approved by the Division Chief.

(e) 50.521 cents for each dollar principal amount of Old Securities that are not thus deposited at the time when the first loan is made pursuant to the provisions of subparagraph (b) of this section, but which are subsequently deposited within such time or times as may be fixed or approved by the Division Chief.

Each deposited Security shall be accompanied by such of its appurtenant coupons, if any, representing interest accrued on or before January 1, 1934, as may be required by the Division Chief and shall be also accompanied by all coupons representing interest payable thereon after such date. In case any such security shall not be accompanied by any coupon required by the Division Chief representing interest on or before the aforesaid date, the amount payable thereon shall be reduced in such amount as may be determined by the Division Chief, but such reduction shall not be less than 46.67 cents for each dollar of the face amount of such missing coupons. In case any Old Securities shall be presented with any coupons missing that mature after the aforesaid date, the Division Chief may refuse to accept [100] the same, or if any security is accepted there shall be deducted from the amount to be paid on account thereof a sum equal to the full face amount of such missing coupons.

In case any Old Security shall be deposited without being accompanied by all the required coupons and if because of such missing coupons reductions are made in the amounts payable on account of such Old Security, but thereafter such missing coupons are deposited within such time or times as may be prescribed or approved by the Division Chief, there shall be paid on account of such coupons subsequently deposited amounts exactly equal to the sums which were originally deducted from the sum paid on account of such Old Security to which such coupons appertained.

5. **Loan. How Effected.** The loan authorized by this Resolution shall be effected in such manner as shall be satisfactory to the Division Chief and to Counsel for the Corporation, and unless they shall otherwise direct, disbursement of such loan shall be conditioned upon the District duly authorizing an issue of 4% bonds (hereinafter called "New Bonds") having a principal amount equal to the amount so disbursed. Among the ways for effecting such loan are the following:

It was further stipulated that some of the coupons of January 1, 1934, were attached to the bonds when they were turned in to the Federal Reserve Bank, the depository for the R.F.C. That on July 3, 1934, the Directors of the District adopted a resolution authorizing the district to submit the

proposed refunding plan to the California District Securities Commission, and on the same date the Directors adopted a plan for refinancing of the bonds of the District in accordance with the resolution of the R.F.C. A copy of resolutions of the Directors of the District adopting the refunding plan were read into evidence, as Petitioner's Exhibits 3b and 3c; also contained therein was authorization to apply to the California District Securities Commission for approval thereof. Petitioner's Exhibit 3d is a resolution of the Board of the District calling an election within the District for the APPROVAL OR REJECTION OF THE PLAN, and sets forth Order No. 13 of the California Districts Securities Commission approving the plan. It was stipulated the last mentioned order was adopted by said Commission August 10, 1934.

PETITIONER'S EXHIBIT 3a

Petitioner's Exhibit 3a was a resolution of the board of directors of the district adopted June 12th, 1934, accepting the loan from the Reconstruction Finance Corporation, and authorizing the president and secretary to arrange for a depository for the deposit of the outstanding bonds of the district and to do all other things necessary to consummate the loan.

It was stipulated that the election was held September 28th, 1934, and carried and that the proposition voted upon was [67] as follows, to wit:

Proposition: Shall the Paradise Irrigation District enter into and execute a contract with the Reconstruction Finance Corporation, an agency of the United States of America, providing for the issuance of refunding bonds and complying with the requirements of said Corporation, including among other things provisions for the levy and collection within said District of assessments that will be sufficient in amount to pay such bonds together with interest thereon when the same fall due and also to create a reserve fund; and shall said District issue refunding bonds in the principal amount of \$252,500 for the purpose of reducing and refinancing outstanding indebtedness of said District, under and pursuant to and in accordance with the resolution adopted by the Reconstruction Finance Corporation dated May 22, 1934, and accepted by the Board of Directors of said District on June 12, 1934, and pursuant to the refunding plan adopted by the Board of Directors of said District on August 7, 1934, and Order No. 13 of the California Districts Securities Commission dated August 10, 1934, approving said plan and authorizing such refunding?

The resolution adopted November 6, 1934, authorizing the issuance of the refunding bonds and giving their form was received in evidence as Petitioner's Exhibit 3f. The copies of resolutions of the Board

of Directors of the District authorizing the District to enter into a contract with the Reconstruction Finance Corporation to effect said plan, both resolutions being adopted at a meeting of the Board held November 6, 1934, were introduced in evidence as Petitioner's Exhibits 3g and 3h, respectively, over objection of respondent that no proper foundation had been laid and that there was no authorization in the loan or in the vote of the people. Amongst the clauses contained in the contract authorized to be executed by Petitioner's Exhibit 3h, there appears in Sections 2 and 3 thereof the following:

2. Until the Old Securities acquired and held by the Corporation by reason of or in connection with such disbursements are exchanged for New Bonds issued by the District, or are otherwise refinanced as provided in said resolution, they shall at all times continue to be and constitute obligations of the District for the full face amount thereof. [68]

3. When all of the Old Securities are made available for refinancing and are acquired by the Corporation the reduction in the District's indebtedness will be effected to the extent and in the manner provided in said resolution authorizing said loan, and the parties hereto will do all acts and take all steps and proceedings necessary or appropriate to facilitate and accomplish expeditiously such result.

PETITIONER'S EXHIBIT 3i

Petitioner's Exhibit 3i was a resolution of the board of directors of the district adopted December 12, 1934, that the district enter into a contract with the Reconstruction Finance Corporation, providing that the district should issue and sell and the R. F. C. purchase not to exceed \$252,500 principal amount of refunding bonds, "together with the interest accrued thereon (if such interest is not adjusted at the option of the R. F. C. by a credit endorsement on the coupon) to the date of making a disbursement on the loan authorized herein; the proceeds of the bonds to be used for the purpose of refunding the outstanding in- [101] indebtedness of said Borrower and to pay costs incident to such refinancing; provided, however, that if R. F. C. should make a temporary loan to the creditors of said Borrower or their agent, and thereby or otherwise acquire legal title to all, or any part of the indebtedness of said Borrower, such refunding bonds, or any part thereof, may be acquired by delivering, for cancellation to said Borrower, a like or greater principal amount of the bonds of said Borrower, and by the cancellation of the other indebtedness held by R. F. C., and provided, further, that R. F. C. may, in its discretion, keep any part of said indebtedness alive, for the purpose of maintaining a parity between itself and the holders of indebtedness of said Borrower who have not agreed to enter into the refinancing scheme of said Borrower, or for any other purpose."

The resolution further provided that the district will levy and collect sufficient assessments to pay operation expenses and also to establish and maintain a reserve fund for the principal and interest of the refunding bonds, and that various reports will be made to the R. F. C., and that the R. F. C. should at all time have full access to and copies of all reports and files of the district.

Under date of December 24, 1934, the Board adopted a resolution amending its resolution of June 12, 1934, because the R. F. C. had amended paragraph 3 of its resolution of May 22, 1934, which resolution of the Board was introduced in evidence as Petitioner's Exhibit 3j.

Negotiations were carried on between the District and the bondholders, looking toward a composition of the district's bonded indebtedness. A bondholders committee was formed. Many letters passed between the district and the bondholders, and between the district and the R.F.C. The consummation of these transactions was that approximately 93% of the owners of the bonded indebtedness of the district agreed to the plan; the only dissenting bondholder was J. R. Mason, who owned \$29,000 of the outstanding bonds. In the agreement entered into between the district and the bondholders committee, the latter being represented by George Stephens, as executive secretary, the said committee adopting the name "Bondholders Protective Committee", the

district made the offer for a composition in accordance with the plan. The district sent to the holders of its bonds a written offer in accordance with the plan, a copy of which was introduced in evidence as Respondent's Exhibit No. 3.

RESPONDENT'S EXHIBIT 3:

Respondent's Exhibit 3 was a letter dated July 1, 1934, directed to the holders of bonds of the district and was sent out by the Paradise Irrigation District. It stated that a loan had been authorized by the R. F. C. in the sum of \$252,500, and stated:

"The Reconstruction Finance Corporation, in its resolution authorizing the loan, requires that the basis of settlement shall be at the rate of \$525.21 on each \$1000.00 par value bond (\$262.60 on each \$500.00 bond), including all unpaid delinquent interest coupons, which coupons must be deposited with the bonds before payment can be made.

Nearly all of the interest falling due July 1st, 1932, has been paid by the District, and in order that all holders of bonds may as nearly as possible be placed on an equal footing, the District will arrange to meet the balance of the unpaid interest maturing on that date, but all unpaid coupons maturing subsequent to that date must be turned in with the bonds at the flat price. If you have deposited your coupons with the Bondholders' Committee they will complete the

deposit of the coupons for you upon your sending to the depositary the bonds and the coupons not sent to the committee. If you hold any coupons maturing July 1st, 1932, you should continue to hold them until advised to send them to the district for payment."

The letter further set out the increasing delinquencies in the district and asked for the deposit of bonds with the depositary at Chico, California, and further stated:

"We would further call your attention to the fact that under the Resolution of the Reconstruction Finance Corporation the corporation has the right TO MAKE A DISBURSEMENT TO THOSE WHO HAVE DEPOSITED their securities WHENEVER the amount so deposited shall be ACCEPTABLE to the Chief of the Division of the Reconstruction Finance Corporation, and that after such initial disbursement any securities which may be LATER deposited will ONLY be paid for at the rate of \$505.21 per \$1000.00 par value bond; and it is therefore to your advantage to deposit your securities promptly so that you may receive the HIGHER price."

Respondent's Exhibit 3 also included a letter dated October 9, 1934, to non-depositing bondholders of the district, [119] signed by H. S. Clewett, secretary of the Paradise Irrigation District, and stating in part:

“We are communicating with you at this time to advise you of the status of the deposit of bonds on the refinancing program of the Paradise Irrigation District and of the closing date within which time deposit of bonds can be accepted to share in the first disbursement under the LOAN from the Reconstruction Finance Corporation.

All except five individual bondholders—holding a total of 36 bonds—out of 476 outstanding have either actually deposited their bonds or have definitely agreed to the terms of the settlement in acceptance of this refinancing program, which means that the holders of over 92 per cent of the outstanding bonds have accepted the settlement.

The Paradise Irrigation District has held its election for the authorization of new bonds to the Reconstruction Finance Corporation and the acceptance of the refinancing program, at which election the new bonds were authorized by a vote of 436 to 10, and we are now in a position, as soon as the necessary matters of procedure are gone through with, TO ISSUE OUR NEW BONDS to the Reconstruction Finance Corporation and have it deposit the money with the depository TO MAKE SETTLEMENT WITH THE PRESENT BONDHOLDERS in accordance with the provisions of the refinancing program.

The regulations of the Reconstruction Finance Corporation provide that the refinanc-

ing program may be declared effective and a disbursement made to the depositing bondholders at any time WHEN the DIVISION CHIEF shall deem that such a large PROPORTION of securities has been deposited as will SATISFACTORILY ACCOMPLISH THE PURPOSE of authorizing the loan, and that in that event on any securities which are later deposited only 50.521 cents per dollar shall be paid instead of 52.521 cents per dollar on securities deposited before the making of the first disbursement, or a difference of \$20.00 per \$1000.00 bond.

We have therefore set October the 25th, 1934, as the final date within which bonds may be deposited with the depositary, Bank of America at Chico, California, to be included in the first report and share in the first disbursement at the higher rate; and we are sending this communication to all bondholders who have not actually deposited their bonds at this time, even though they may have entered into a definite agreement to so deposit, in order that they may be thoroughly advised as to the situation and act accordingly."

In the matter of the effecting of the composition with the approximate 93% of consenting bondholders, no money was advanced by the R.F.C. to

the district, nor did the district dispense any of the money used by the R.F.C. in the payment to the bondholders of the composition sum. All money [69] used to pay the composition figure was sent by the R.F.C. to the Federal Reserve Bank of San Francisco, with instructions by letter dated December 17, 1934, to purchase said bonds at the composition figure, and they were so purchased by the Federal Reserve Bank of San Francisco under such instruction, and are now in the possession of the Federal Reserve Bank of San Francisco, and are being held by it for the R.F.C., and they have never been in the possession of petitioner.

Just prior to the consenting bondholders depositing their bonds with the escrow holder, the bondholders Protective Committee, by its executive secretary, George Stephens, notified such bondholders of the final consummation of negotiations of the committee with the district, a copy of his letter to them was admitted in evidence as Petitioner's Exhibit No. 7.

It was stipulated that the district requested that the bonds held by the R. F. C. and purchased as above set forth be registered under the Statute of 1913 (Ch. 23) and they were registered in the name of the R. F. C. on July 1, 1936.

Upon January 14, 1936, Paradise Irrigation District filed in the present court under section 78, 79 and 80 of the Bankruptcy Act of the U. S., being cause No. 6648, a petition, which set forth that the district was insolvent and unable to pay its debts

as they mature, and desired to effect a composition of its bonded indebtedness. The debts alleged in such petition were the same bond issues as are set forth in the instant case. The plan therein was to pay 52.521 cents per dollar of the principal amount of the bonds without deduction for coupons which had been paid. The refund bonds referred to therein were the same bonds that were voted upon on September 28, 1934; in such case the respondent herein, J. R. Mason, appeared and filed an answer setting up the unconstitutionality of the Act and substantially the same defenses that he has set [70] up in this pleading. He also filed a petition to dismiss, and this court on October 28, 1936, entered a judgment of dismissal which has never been appealed from and is now final, a copy of which judgment of dismissal was admitted in evidence as

RESPONDENT'S EXHIBIT No. 4,

and is as follows:

In the District Court of the United States of America in and for the Northern District of California Northern Division

No. 6648.

In the Matter of the Application of Paradise Irrigation District, an Irrigation District Organized Under the Laws of the State of California, for an Order Authorizing the Readjustment and Settlement of Its Indebtedness.

JUDGMENT OF DISMISSAL

It appearing to the Court that this is a proceeding in bankruptcy initiated by the Paradise Irrigation District, an irrigation district organized under the laws of the State of California under the provisions of paragraphs 78 to 80 of the Bankruptcy Act, added by act May 24th, 1934, 11 U.S.C.A., Sections 301 to 303, and the respondents, J. R. Mason and E. Masten, having moved the Court to dismiss the petition and proceedings herein, and it appearing to the Court that said provisions of the Bankruptcy Act of 1898 are unconstitutional and void and that the Court is without jurisdiction to entertain the petition for readjustment and settlement of the indebtedness of said Paradise Irrigation District, and good cause appearing therefor,

It is ordered, adjudged and decreed that the petition for authority to effect a plan of debt readjustment of said Irrigation District be and the same hereby is dismissed, and the Clerk of this Court is directed to enter the dismissal thereof of record.

Dated: October 28th, 1936.

HAROLD LOUDERBACK

United States District Judge.

Thereafter and upon the day of , 19...., and under Chapter 10 of the National Bankruptcy Laws of the United States, as amended by Public

No. 302 of the 75th Congress, and approved August 16, 1937, Paradise Irrigation District filed the present petition in the above court. Prior thereto, and upon September 27, 1937, the Board of Directors of Paradise Irrigation District, by resolution adopted a plan for composition and readjustment of its debts, a copy of which plan is attached to the present petition, and is marked Exhibit A, and is hereby referred to. That the plan set forth therein so [71] adopted for the composition of the district's indebtedness, is as follows, to-wit:

The district proposes a composition of its present outstanding indebtedness by paying the holders thereof, in cash, the sum of 52.521 cents for each dollar of the principal amount of their respective bonds, exclusive of interest; that if any bond be presented with any appurtenant interest coupon maturing on or before July 1, 1934, missing, there shall be deducted from the amount payable thereon 45.67 cents for each dollar of the face amount of such missing coupon, and if any bond be presented with any appurtenant unpaid interest coupon maturing subsequent to July 1, 1934, missing, there shall be deducted from the amount payable thereon a sum equal to the full face amount of such missing coupon. Provided, however, that where deductions are made on account of missing coupons and such missing coupons are afterward presented for payment, the holder thereof shall be paid the sum deducted from the amount pay-

able to the holder of the bond on account of the missing coupon; that such payments will be made from the proceeds of a loan authorized by the Reconstruction Finance Corporation and which has been or will be disbursed to or for the benefit of the district for the purpose of reducing and refinancing its indebtedness.

To evidence such loan the district further proposes to issue and deliver to the Reconstruction Finance Corporation its new or refunding serial bonds in principal amount equal to the agreed amounts disbursed therefrom for the purposes mentioned, including the cost and expenses not to exceed \$2,500 incurred by the district in connection with its debt readjustment, together with 4% interest on all such disbursements from the date thereof until the new or refunding bonds evidencing same are issued and delivered to the Reconstruction Finance Corporation as authorized by an election held by the district on the 28th day of September, 1934.

The new or refunding serial bonds to be issued and delivered by the district to the Reconstruction Finance Corporation will bear interest from date until paid at the rate of 4% per annum, payable semiannually; the first installment of principal will mature three years after date thereof, and thereafter the remaining installments of principal will mature annually according to a schedule therefor which is acceptable to the Reconstruction Finance Corporation.

Or, in the alternative, the details of the above plan may be reasonably modified in such particulars as the Court deems just and proper, and as may be acceptable to the Reconstruction Finance Corporation and the president and secretary of the district.

That also prior to the filing of said petition the Reconstruction Finance Corporation, upon October 28, 1937, adopted its resolution accepting the latter plan for composition [72] and readjustment of the indebtedness of said district, a copy of which said resolution is attached to the petition herein and is marked Exhibit B.

That also attached to said petition and marked Exhibit C is a list of creditors, (bondholders) of the district; said list shows that J. R. Mason, Mrs. Eugenia M. Masten and James H. Jordan Company own \$29,000 of said bonded indebtedness, and the R. F. C. \$447,000 worth. It was stipulated in court that J. R. Mason (who always owned \$26,000 thereof) had succeeded to the interest of the others in and to the said \$29,000 worth of bonds, and is the sole owner thereof; said list disclosed that said J. R. Mason had not accepted the plan of composition, and that the R. F. C. had.

The petition of the district was heard March 17, 1939.

JAMES B. THOMPSON

was called as a witness for petitioner and testified that he had been superintendent and secretary of the district for nearly three years and had resided within the district for a period of 6 or 7 months prior thereto. Petitioner's Exhibit 4 was prepared by the witness and was received in evidence, and consisted of a statement of the district's delinquent list from 1926 to 1938. The reason that the delinquencies decreased from 1934 to 1938 was because since 1934 the district only levied 4% for interest on the amount paid out by the R. F. C. to purchase the approximate 93% of the district's bonds. The witness had prepared a statement entitled "Resume of Annual Reports of the District", which was introduced as Petitioner's Exhibit 5. This represents the secretary's report as required by law annually to the Board covering the years 1928 to and including 1938. The report, Exhibit No. 5, discloses the tax deeded land to the district. Such tax deeded land at the time of the trial was 4,319 acres; there are 11,250 acres in the [73] district; this Exhibit shows the repair to the pipe lines required through breaking. The district serves water through a wooden pipe line. The condition of this pipe system is extremely bad. It is practically all a wooden staved pipe line and certain of the soil in the district is very injurious to the steel winding bands that hold the wood staves together, and they corrode and break through and the pipe breaks must be repaired; also certain staves have decayed during the

(Testimony of James B. Thompson.)

approximate 20 years since its installation. This condition will get worse. The entire system will require replacement. The least estimate of the charge for replacement is \$132,000.

At this point counsel for petitioner asked counsel for respondent if he would stipulate that the district comes within the purview of the Municipal Bankruptcy Act. Counsel for respondent stated that in the first place he did not concede that the assets of the district are less than its liabilities.

The witness proceeded and stated that the maximum storage capacity of the district is 3012 acre feet; the average flow of Little Butte Creek which fills the reservoir is 1200 acre feet; the average annual amount of water served consumers is 1293 acre feet; loss of water to the district through breaks and leakage, excluding the dam, is 1204 acre feet annually. In 1937 the district itself spent in rehabilitation work \$2,327.25, and a W.P.A. project that overlapped with the district's work, expended \$10,374.00 additional. A levy of taxes was made in the district for 1937, calculated to yield \$11,477.00.

At this time counsel for respondent presented a claim filed by J. R. Mason covering his bonds, and it was stipulated that items contained in said claim are correct.

The cost of water delivered in 1937 for the acreage determined irrigated by the R.F.C., was \$28.80 per acre foot. [74] An acre foot of water is enough to cover one acre of land one foot in depth. A state-

(Testimony of James B. Thompson.)

ment prepared by the witness showing repairs to the distributing system from 1928 to 1938 was received in evidence as Petitioner's Exhibit 6.

Of the 4,319 acres of tax deeded land possessed by the district, from 160 to 170 parcels ranging from a half acre to maybe 10 acres have been sold by the district under contract. Considerably more than one-half of the land in the district does not have water service. Delinquency in payments has been to a very large extent delinquencies in assessments on land to which there is no water available. The price for which the district sold its tax deeded lands was, in all instances except possibly two or three, more than the amount of taxes for which title was taken. The re-selling of land by the district has been unsatisfactory, owing to inability to move enough of it. The money that came in from sale of lands was put in the general fund, and used in operation and maintenance and carrying on the district's business. It is not a fact that a large part of such money was put into the reserve fund under the R.F.C. contract. \$1958.29 was taken from the reserve fund to pay some interest coupons of Mr. Mason and this was returned to the R.F.C. reserve fund from the general fund. The allocations made from the tax levy as directed by the Board of Directors, varies. At present \$3.75 assessment per \$100 valuation is assessed for bond and interest servicing.

The witness was asked if in the last three or four years the levy for bond principal and interest was

(Testimony of James B. Thompson.)

based upon the original bond issue or upon the amount that the district owed the R.F.C., and the witness answered that it was based upon the amount owed the R.F.C. Counsel for petitioner moved that the last answer go out to permit his objection upon the [75] ground it calls for the opinion and conclusion of the witness, as the question was upon the basis of the amount owed the R.F.C. and that such was calling for the opinion and conclusion of the witness as to what is owed, whether it is the full amount of the original bonds or the amount of the R. F. C. advanced, and that that was for the court to decide. In ruling thereon the court said that he supposed that is calling for the witness's conclusion, but that he is not deciding for the court.

A toll system for use of water was started in the district in about 1933, and after that a portion of the district expenses was met by the water toll and the levy for tax purposes was reduced, which explains the drop in the assessment as shown upon the Exhibit 5 to \$359,000.

The witness stated he was familiar with the provision in the contract of the district with the R. F. C. to the effect that old securities acquired and held by the R. F. C., until exchanged for new bonds, or otherwise refinanced as provided by the R. F. C. resolution, (Petitioner's Exhibit 2,) should at all times continue to be and constitute obligations of the district for the full face amount thereof, and the reason they budgeted for \$233,000 in bonds in-

(Testimony of James B. Thompson.)

stead of their full face value of \$476,000 was because of an agreement with the R. F. C.

The minimum price of the tax deeded lands sold by the district was \$2.50 per acre, and the maximum \$50.00 per acre. The greater part was sold for \$40.00 per acre.

The witness was asked by counsel for respondent:

"Do you regard the plan of the district after it may have been put into effect as feasible in that the district will be able now in the present condition of its works to collect sufficient money to pay the interest to the R. F. C. on the new refunding bonds?"

The objection of counsel for petitioner to the question was sustained. [76]

HOWARD S. CLEWETT

was called as a witness for petitioner and testified that he had been secretary of the district from 1933 to March of 1935, and that he lived in the district continuously since 1930, but owned land there since 1921. That he had been to the district four or five times between 1921 and 1930. That the distributing system of the district consists of a redwood stave pipe line bound together with corrugated wire, and was installed around 1918 or 1919 and is in bad condition, in that the binding of the wire would

(Testimony of Howard S. Clewett.)

break and cause leaks and the line has to be dug up and re-wound or re-bound with wire. During the time he was secretary the water loss to the district was about one-third. That would be about 1000 acre feet a season. 2500 to 3000 acres are the maximum irrigated land at the present time; this was because there is a large part of the district in which there is no pipe line; there is an undeveloped tract through the district which is not developed because of water conditions; also there are non-users of water where water is available, one of the reasons being the high cost of water; the cost is prohibitive for certain purposes because you cannot produce the crop which when you count your labor and all expenses, and the cost of the water, would pay any profit.

The witness testified he is at present a Justice of the Peace of Paradise, which is in the district, and is also an attorney at law, and a member of the Chico Board of Education in the Chico High School District, and in such capacities has observed the average family within the district; the average income of a family within the district does not exceed \$75.00 a month; the average grocery bill is from \$40 to \$45 a month and there are other essentials to be paid for; automobile expense is a necessity as the district is located 17 miles from Chico and 21 miles from Oroville, and the majority of the men when they work out go either to Sterling City, 13 miles away, or [77] DeSabla, which is about 7 or 8

(Testimony of Howard S. Clewett.)

miles away, or down into the valley, and some kind of transportation is necessary as there is no public transportation of any kind; also there is fuel to be paid for and lights; also doctor bills, dentist bills and clothing; these other essentials would run \$35 to \$40 a month, and there is nothing left after paying the essentials to pay either the irrigation district taxes or State and County taxes; that the Board of Education of which he is a member maintains a free lunch service for needy children for many come to school with no lunch. The maximum amount the district can pay annually in taxes is not to exceed \$10,000 a year.

Before the Bondholders Protective Committee entered into the arrangement to accept the plan of composition, its secretary, Mr. George Stephens, made many trips to the district; probably 15 or 20; this Committee recommended to its members they accept a settlement according to the plan.

There was thereupon introduced Petitioner's Exhibit No. 7, which is a letter from the Bondholders Protective Committee to its members, which recommends acceptance of the plan, and stated: [78]

The demands of the old bond issue could not be met out of income strictly from the district and separately from the income of the people from other sources that they may have. They could be met for a time until the principal payments began to pile up. Under the old bond issue we would be required to pay each year something like \$40,000 principal and interest. Up until 1927 and 1928 they

(Testimony of Howard S. Clewett.)

were able to meet the requirements because there were small principal payments and the general conditions were better, as to income. They obtained at least double the price for the produce raised over what they do now and higher wages and more work. In his opinion if there had never been a depression we would have been unable to meet the maturity under the old bond issues, because they accumulated too fast.

PETITIONER'S EXHIBIT 7.

Petitioner's Exhibit 7 is a letter from the Bondholders' Protective Committee to its members, which recommended acceptance of the plan, and stated:

"The District will pay through funds obtained from the R. F. C. the sum of \$525.21 per \$1000 bond (\$262.60 per \$500.00 bond) delivered to the depositary, accompanied by January 1933 and all subsequent coupons, plus interest at 4% on the purchase price from July 1, 1934, until the money is paid, or until interest to the Government begins. Coupons that have been or will be turned in to the District through Committee will be considered as accompanying bonds:

The District will pay to Committee against its expenses in getting bondholders together a sum equal to \$10.00 per coupon for coupons of January and July 1934 maturity held by the Committee." [102]

(Testimony of Howard S. Clewett.)

Respondent's Exhibit No. 1 was received in evidence, being a letter of July 2nd, 1934, to depositing bondholders.

RESPONDENT'S EXHIBIT 1:

Respondent's Exhibit 1 was a notice sent by the Bondholders Protective Committee dated July 2nd, 1934, directed to depositing bondholders and stating in part:

"The Bank of America, Chicò, California, has been selected as Depositary and the District is today sending you papers to be filled out in connection with the SALE OF BONDS TO THE DISTRICT against funds provided by the Reconstruction Finance Corporation.

Bonds of those who deposited their coupons with the Committee should go forward with July 1936 and subsequent coupons attached. But the pink coupon receipts issued by Committee should be detached and held by bondholders against a further disbursement through the Committee when its business is concluded."

EDWARD P. SHIER

was called as a witness for petitioner and testified: He is president of the Board of Directors of the District and his occupation is minister of the Gospel, and part time farmer. He has owned property within the District for about 12 years. Most of the land in the District is on side hills and is Aiken

(Testimony of Edward P. Shier.)

clay loam, very porous soil, lacking in fertilizer elements, but subject to cultivation with the addition of fertilizer and a great deal of water. Default was due to the fact that the land is held in large areas with only a small part in production, so a considerable area became delinquent when they could not secure the money from the land to pay their taxes. The District has sufficient water to get along with the 3000 acres now under cultivation.

Apples, some walnuts, some peaches, small berry patches, and considerable potatoes in commercial quantities, grapes and almonds, are produced in the District. To properly [79] irrigate the 3000 acres under cultivation would require about 6000 acre feet of water. There is available approximately 4200 or 4300 acre feet. More land would be cultivated if it were not for the cost of \$100 to \$200 an acre to clear the land from stumps and brush. Probably about 2000 acres in the district cannot be cultivated. He estimates average family income in the District to be less than \$900 a year. The amount required for family living is at least \$75 a month.

By providing sufficient fertilizer and adequate water through an overhead sprinkler system, very good results are obtained in growing truck crops, but the District is too far from the city to have more than a limited market at the present time.

As to future prospects, an active man can make a fair living at farming in the District. The witness negotiated for the purchase of some of the Dis-

(Testimony of Edward P. Shier.)

triect's bonds in 1931; bought one at 32 cents on the dollar.

From the average income of a family in the district there is not sufficient left with which to pay taxes, either State and County or irrigation and a great many families have paid such taxes at the expense of necessities that they should have had to keep them going as normal healthy people, and to become decent citizens. Many people only get the care of a doctor when there is an extreme need and are unable to pay the bills in many instances. A dentist bill is not incurred because they cannot pay a dollar.

From my experience as a farmer over years it is my opinion as to the future of agriculture within Paradise Irrigation District that an active man, capable, can make a fair living, that is, wages for himself, farming there, that is the best prospect I can see there. I cannot see where there is any profit to be made. There is no product grown on the district that would [80] permit anyone producing that product to pay his own living expenses and pay his taxes to the district.

On cross-examination the witness testified that the land holdings in the District are from an acre to 80 or 100 acres. A good many people have come into the District in the last 8 years and have bought an acre to five acres for a home site. They work for wages when they can. The irrigation tax is about \$2.25 per acre. There are a great many one-acre places, and only a few that are really producing

(Testimony of Edward P. Shier.)

farms where there is a capacity of making a living off of the farm.

Correspondence between the Bondholders Committee and members was received in evidence as Respondent's Exhibit 2.

RESPONDENT'S EXHIBIT 2:

Respondents Exhibit 2 was a copy of a letter from George Stephens of the Bondholders Protective Committee to the members of the committee dated March 31, 1934, a carbon copy having been sent to J. R. Mason, respondent. This letter had attached to it a copy of a letter from D. B. Barnes written to the Deputy Land Bank Commissioner, Farm Credit Administration [117] Washington, D. C., stating among other things the following:

"One of the questions asked in that report was for a statement of the crop production for the year 1932, and a figure was submitted of 1083 acres producing in various crops almost entirely of deciduous fruits. We particularly stated, however, in that report that the major development of this district has been within the past five or six years and only a comparatively small percentage of the orchards have as yet reached the producing stage, and that report of course took no account of young orchards which had not as yet reached the stage of commercial production. The same report stated that the total acreage irrigated in the

(Testimony of Edward P. Shier.)

district was 3000 acres and not 1083 acres as appears in the bulletin.

Furthermore this report took into consideration only acreage which was considered as a commercial proposition and took no account of the very large number of instances of people maintaining their homes in the district and cultivating one or two or three acres as subsistence homesteads from which they were deriving a large part of their living but which could not be considered as farming upon a commercial scale.

The statement is made that the principal value of the district is as a summer home for people living in the valley where they spend the hottest part of the summer, and that it is probable that this development will be very gradual in the future, and that for some years to come the district will do well to hold its own in population and maintain its present development. **THIS IS NOT A FACT.** It is true that this district does have a value for that purpose, but that value is only a very minor part of the picture. The facts are that, this district has had and is now having a **REMARKABLE AND CONSISTENT GROWTH** in population which has **CONTINUED ALL THROUGH WHAT** is generally known as the **DEPRESSION PERIOD** and is still continuing. No exact figures are available as to the present population, but there is no doubt but

(Testimony of Edward P. Shier.)

what the population has increased at least twenty per cent since the 1930 census and is steadily increasing, as is evidenced by the remarkable and sustained increase in Post Office receipts of the local Post Office shown by the statement of the Postmaster submitted herewith and indicating an increase in postal receipts from \$2246.64 for the calendar year 1929 to \$2930.98 for the calendar year 1933. The calendar year 1932 was even larger, owing to an extraordinary increase that year; but the statement submitted herewith shows a steady increase during the entire period. Also, during the past ten years the boxes on the rural route have increased from 150 to 340, and the length of the rural route has increased from 25 miles to 46 miles.

A further indication of growth in population is the fact that during the same period there has been in excess of forty new dwellings and business houses erected in the district, and there are practically no vacancies available anywhere in the district. The Pacific Gas and Electric Company, which serves the district with electricity, has had to make numerous extensions of its lines to serve increasing demands; and one of their [118] representatives made the statement a short time ago, at a Farm Center meeting here, that in proportion to population they had had a greater increase in the Paradise district than in any other district served by the company; and that company, as you know, serves practically all of Northern California."

IRVIN G. HAMMA

was called as a witness by petitioner and testified: That he has lived in the District since 1914. In 1918 and 1919 he was a Director. The District cannot, from the products grown there, pay the interest upon the original bonded indebtedness, and the District requires the replacement of its distributing system. He would say that about 15% of the people in the District are WPA workers making \$44 a month. Some make around \$90 to \$100 a month, but \$75 would be average, in his opinion. An average family having an average income has nothing left with which to pay taxes; he attributed delinquencies in payment of district taxes to inability to make a living there. There is not sufficient water for needs of those who have irrigated crops; he has a forty-acre ranch and raises apples mainly; he has not sufficient water to produce a good crop; there are many people who do not use water because of the cost; he is one of them; since 1930 he has not used the water he should have because he did not get any returns on his apples; he operated at a loss; he was in the grocery business for 15 years in the Paradise district. The average grocery bill for a family of 4 or 5 people would be \$45. Other [81] necessities of life, including an automobile, would add 30 to 35 dollars a month. He operates a 40 acre ranch, raising mostly apples, but he is not able to get sufficient water for a good crop. Returns did not warrant using more water. His water for 20 acres last year cost him a little over \$100. His county taxes on

(Testimony of Irvin G. Hamma.)

40 acres was \$108. He has received 90 cents a box for apples for his average. Cost of production averages 60 cents. He doesn't think the people of the District can pay more than \$8000 per year in taxes to the district.

HARRY B. NOBLE

was called as a witness for petitioner and testified: That he had resided in the District for 17 years and raises apples, walnuts, potatoes on his farm. The District land is rolling land, the soil is volcanic ash, which is porous and requires lots of water, and is unfertile. Originally it was covered with pine trees, oak and manzanita. Elevation is from 1500 to 2000 feet. He has had no profit on walnuts for the past 10 years. He doesn't think there is any land in the District owned by an ordinary average farmer that will earn sufficient to provide the family and pay state, county and irrigation taxes. He also thinks that \$8000 is the maximum amount that can be raised for irrigation district taxes per year.

Order No. 14 of the California Districts Securities Commission ultimately approving the composition plan of the District was received in evidence as a portion of Petitioner's Exhibit No. 8, a portion of which was read into the evidence as follows:

“(a) That the supply of water available is sufficient and the District has the right to so much water as may be needed under its existing plans.

(Testimony of Harry B. Noble.)

(b) That the soil of the District is fertile and susceptible of irrigation; that the District's irrigation system is feasible and operating successfully; that drainage has been provided for:

[82]

(c) That the reasonable value of the water, water right, canals, reservoirs, reservoir sites, irrigation works and other property owned by the District is estimated in excess of the sum of \$439,000; that the reasonable value of the lands included within the boundaries of said District is estimated in excess of \$430,000.

(d) That the \$252,500 par value of refunding bonds under consideration does not exceed 60% of the aggregate value of the water, water rights, canals, reservoirs, reservoir sites, irrigation works and other property owned by the District, and the reasonable value of the lands within the District.

(e) That the refunding bonds which are entitled to certification by the State Controller and which are available for the purposes specified in Section 9 of the California Districts Securities Commission Act are as follows: —

PETITIONER'S EXHIBIT 8

Petitioner's Exhibit 8 consisted first, of extracts from the official minute book of the board of directors of Paradise Irrigation District.

(Testimony of Harry B. Noble.)

Page 1 of the Exhibit set forth a resolution of the directors adopted June 30th, 1937, providing for the payment to the Reconstruction Finance Corporation of \$4,643.28 due as interest on July 1st, 1937.

Page 2 was a resolution of the board of directors adopted September 13th, 1937, reading in part as follows:

"Whereas: the budget adopted for the fiscal year 1937-38 requires for General Fund purposes \$23,631.44, and for Bond Service the sum of \$11,477.28, segregated into Bond Principal, \$2,110.53, and Bond Interest, \$9,366.75;

And whereas: it is reasonably anticipated that income from standby and toll water charges, land sales and other income will meet all General Fund requirements;

And whereas: The total assessed valuation of property within the Paradise Irrigation District subject to taxation for District purposes as assessed by the Assessor and equalized by the Board of Directors, sitting as a Board of Equalization for the year 1937-38, is the sum of \$360,071.55;

And whereas: it is reasonably anticipated that the sum of \$2,389.47, allocated to Bond Services purposes will be received from tax redemptions and land sales, leaving a balance of \$11,477.28 to be raised by taxation.

Now therefore be it resolved, that in order to

(Testimony of Harry B. Noble.)

raise said sum of \$11,477.28 for said purposes, an assessment be and hereby is levied upon all land within the boundaries of Paradise Irrigation District subject to an assessment for District purposes at the rate of 0.69%, payment of Bond Principal, and at the rate of 3.06% for payment of Bond interest, making a total levy of 3.75% upon the assessed valuation of land within the District, and the Secretary is hereby directed to compute and enter the same in the assessment book as provided by law;

And be it further resolved, that all money received from tax redemptions and applicable to Bond interest Fund, be and the same is ordered credited to the RFC Bond Reserve Fund."

The rest of the exhibit was a general statement or report, from the minutes, of the organization, development and condition of Paradise Irrigation District. This report was made [103] by Jerome D. Peters, attorney for the district, at the request and employment of the Board of Directors, and was dated June 20, 1938. Pages 13 to 38 of this exhibit contain the following:

The district made application to the R. F. C. for a loan and the latter authorized the loan in the sum of \$252,500, of which \$250,000 was for the purpose of purchasing the old bonds of the district at the rate of 52.521 cents per each dollar of principal amount.

(Testimony of Harry B. Noble.)

Certain owners of bonds of the district formed a bondholders protective committee, of which George Stephens was executive secretary. At the time H. S. Clewett was secretary of the district. Upon May 22nd, 1934, Emil Schram of the R. F. C. sent a form of letter to Mr. Clewett informing him that the loan had been authorized. The district then sent a letter to all bondholders urging them to deposit their bonds under the plan, and this letter also contained the following statement:

"Nearly all the interest falling due July 1st, 1932, has been paid by the District, AND IN ORDER THAT ALL HOLDERS OF BONDS MAY AS NEARLY AS POSSIBLE BE PLACED ON AN EQUAL FOOTING, the District will endeavor to arrange to meet the balance of the unpaid interest maturing on that date, but all unpaid interest coupons maturing subsequent to that date must be turned in with the bonds at the flat price."

On June 12, 1934, the district accepted the loan from the R. F. C., and thereafter the district secured the consent for its acceptance of the loan from the California Districts Securities Commission. On September 28, 1934, a special election was had in the district on the question of issuance of refunding bonds for the purpose of refinancing the indebtedness of the district.

Prior to the calling of the special election the bondholders committee had asked the district to

(Testimony of Harry B. Noble.)

pay the bondholders a "round sum of money against its expenses". Correspondence regarding this request was had between the R. F. C. and the district, the exhibit referring to this correspondence in part as follows: [104]

"In reply to Mr. Keenan, Mr. Clewett wrote upon August 20, 1934, acknowledging receipt of Mr. Keenan's letter of August 13, and stated that under "Resolution No. 1" of the Bondholders Committee, such Committee had agreed to accept for the coupons controlled by it payment in the sum of \$10.00 per coupon (each coupon being of the face value of \$30.00) for all coupons up to and including July 1934 maturity, which payment constituted interest at the rate of 2% per annum, and would be equivalent to interest at the rate of 4% per annum on the proposed new bond issue. The letter stated that no agreement for compensation to the Committee on account of its expenses or otherwise was made by the District, except to take up all coupons controlled by it up to and including July 1934 maturity at \$10.00 per coupon; that pursuant to such an agreement, the District had taken up all coupons presented of July 1933 maturity, and had allowed a proportion of those maturing January 1934, and that the agreement obligated the District to take up at \$10.00 each the remaining January and July 1934 coupons controlled by the Com-

(Testimony of Harry B. Noble.)

mittee. The letter further states that upon the loan being granted, the District entered into negotiations with the Committee concerning the District's obligations under the agreement and the matter of expenses of the Committee, as a result of which the Committee adopted a resolution dated June 8, 1934, a copy of which was attached to the letter, the effect of which was to adopt as a measure of the amount to be paid to the Committee the obligation of the District to take up at \$10.00 each all interest coupons controlled by the Committee up to and including the July 1934 maturity, and that no additional charge would be made against the District on account of Committee expenses.

Under date of September 5, 1934, Mr. Keenan replied to Mr. Clewett, acknowledging receipt of his letter, and of Resolution No. 6 of the Bondholders Committee, stating that the latter indicated that the District contemplated paying the Committee at the rate of \$10.00 for each 1934 coupon turned over by it to the District and that no deduction be made at the time of disbursement to cover 1934 coupons missing from bonds deposited through the Bondholders Committee. Mr. Keenan further added that if the Reconstruction Finance Corporation's interpretation of the proposed arrangement was correct, IT WOULD APPEAR THAT THE

(Testimony of Harry B. Noble.)

PLAN WOULD WORK TO THE ADVANTAGE OF BOND HOLDERS DEPOSITING THEIR SECURITIES THROUGH THE COMMITTEE AS AGAINST THE OTHER BOND HOLDERS. Mr. Keenan recalled that Section 9-C of the Resolution covering the loan made it mandatory for the applicant to submit for approval of the Corporation, a statement of the amounts to be paid depositaries, Committee Members, and others; and stated that no payment should be made to cover the expenses of the Committee until such expense had been approved by the Reconstruction Finance Corporation.

Again on September 10, 1934, Mr. Keenan wrote Mr. Clewett stating that the expenditures set forth in the District's budget for the year 1934-35 met with approval, with one exception, that is, the item "nonrecurring interest adjustment on the bond settlement," amounting to \$4,800. He further stated, "It would be advisable for you to defer further payments on account of 1934 coupons until such time as we have satisfactorily disposed of the questions raised in our letter of September 5th." [105]

By letter of September 17, 1934, Mr. Clewett replied to Mr. Keenan, stating, ". . . we do not intend to make any payment to the Bondholders Committee, either on their expenses or on such 1934 coupons, until the entire program has been approved by you."

(Testimony of Harry B. Noble.)

On October 11, 1934, Mr. Keenan again wrote Mr. Clewett stating that he understood from Mr. Clewett's letter of September 17 and previous correspondence, that the expenses incurred by the Bondholders Committee would be taken care of by the District through the purchase of 373 interest coupons which fell due in 1934, and stating that the Reconstruction Finance Corporation had no objection to the District buying in these coupons providing it was financially able to assume the additional obligation.

On October 24, 1934, Mr. Stephens, Executive Secretary of the Paradise Irrigation District Bondholders Protective Committee, wrote Mr. Clewett that the bond holders were not going to permit their bonds to go until the payment (the \$10.00 per coupon) was made. A copy of this letter is hereto attached and made a part hereof and is marked Exhibit "A".

Upon October 24, 1934, Mr. Keenan wrote Mr. Clewett asking him to explain as to the source of the funds necessary to meet this interest payment, and directed his attention to Paragraphs 4 and 9 (e) of the Reconstruction Finance Corporation resolution granting the loan.

On October 25, 1934, Mr. Clewett replied to Mr. Stephens' letter of October 24, and warned him of the possible dire consequences of making

(Testimony of Harry B. Noble.)

the payment in question to the Bondholders Protective Committee, without the approval of the Reconstruction Finance Corporation. A copy of this letter is hereby attached, is made a part hereof, and is marked Exhibit "B".

Upon October 26, 1934, Mr. Stephens of the Committee, wrote Mr. Clewett, giving him a list of 373 bond holders' coupons in the hands of the Committee. It is well to note that of these 373 bond holders, but 323 finally came in under the composition entered into with the bond holders; the remaining 50 coupons were what are known as the Mason, etc. coupons, which will be mentioned later.

Upon October 29, 1934, Mr. Clewett wrote the Committee that he noted in the list of coupons listed as being in the hands of the Committee, there were 48 coupons from what are known as the Mason, etc. bonds, and that the bonds to which these coupons were attached had not been deposited under the terms of the settlement agreement, and suggesting that such coupons be eliminated from the settlement and be not paid for at the rate of \$10.00 per coupon; in reply thereto on October 30, Mr. Stephens of the Committee wrote Mr. Clewett that he did not think it wise to hold out on these Mason bonds, and stated that the District would have enough trouble with Mason before it was through and that he (Mason) would be

(Testimony of Harry B. Noble.)

only too happy to find an instance of INEQUALITY upon which to hand his further activities. It is to be noted that Secretary [106] Clewett's letter to Stephens mentions only 48 Mason coupons, whereas the previous letter of Stephens to Clewett mentions 50 Mason coupons.

At this point, reference is made to a letter from the Secretary to Mr. Frank J. Keenan, Financial Adviser, Reconstruction Finance Corporation, dated October 31, 1934.

Upon November 3, 1934, the Secretary wrote the Bondholders Committee that the District intended reporting to the Reconstruction Finance Corporation, and eliminating the coupons of all non-depositing bond holders (Mason et al bonds) and upon November 6, 1934, Mt. Stephens of the Committee wrote the Secretary, stating it would be unfair to report the matter as suggested, and stating that in fairness, Mason should be paid for his coupons as other members of the Bondholders Committee.

Upon November 6, 1934, Mr. Stephens of the Committee wrote Mr. J. E. Alley, superintendent of the District, in respect to this matter.

Upon November 9, 1934, Mr. Keenan of the Reconstruction Finance Corporation wrote the Secretary of the District, and together with other things, stated that it might be advisable for the District to take up the entire lot of 373 coupons at the rate of \$10.00 each, but he was

(Testimony of Harry B. Noble.)

solicitous over the means of the District making payment and stated that such payment would amount to \$3,730, and the District would have \$5,050 additional to raise to pay the interest on the new bonds from July 1, 1934 to date of disbursement, and that the District only had \$2,486 on hand to meet these payments. Mr. Keenan stated he had noted the Secretary's statement that there was \$10,250 of the construction fund derived from the proceeds from the sale of bonds issued in 1919 for construction purposes, and that the District might borrow from this sum to meet and pay the balance of the above mentioned indebtedness. Mr. Keenan expressed some doubt as to the legality of such procedure, but suggested the District should obtain advice from its counsel as to its legality.

Upon December 3, 1934, Mr. Keenan of the Reconstruction Finance Corporation wrote the Secretary that it would be satisfactory to the Reconstruction Finance Corporation to have the District either borrow money from the construction fund or have the money transferred from said fund, as heretofore suggested, for the purposes mentioned, and suggested the District proceed in such matter as counsel and the directors of the District deemed advisable.

Under date of December 17, 1934, the Reconstruction Finance Corporation, through H. A.

(Testimony of Harry B. Noble.)

Mulligan, as Treasurer, sent to the Federal Reserve Bank of San Francisco instructions in reference to the loan in question, and among the instructions contained in such letter was the following:

“DEDUCTIONS SHALL ALSO BE MADE for the full amount of the coupons falling due July 1, 1934, or subsequently thereto, WHICH DO NOT ACCOMPANY the bonds even though it appears that said coupons have been presented for payment and paid by the [107] District. Accordingly, you are instructed to make a deduction for the face amount of the coupons detached from the bonds as set forth in Exhibit ‘A’, where it appears that the first unpaid coupon is the one falling due January 1, 1935.”

The face value of each of the coupons referred to in the foregoing instructions was the sum of \$30.00.

Upon December 21, 1934, Mr. Stephens of the Bondholders Committee, wrote the Secretary that he had ordered the coupons held by him (373) shipped to the District in care of the Bank of America, Chico, to be delivered when the sum of \$3,730 was paid to the Bank for the Bondholders Committee. Mr. Stephens further states that if there is any further delay in consummation of the Government matter, that it would do no harm to have the coupons

(Testimony of Harry B. Noble.)

lying in Chico, AS OF COURSE THEY SHOULD BE SEPARATED AND ATTACHED TO THE RESPECTIVE BONDS PRIOR TO DELIVERY, AND THIS WILL BE SOME LITTLE TASK. In reply thereto, the District Secretary wrote Mr. Stephens on December 24, "We have instructed the Bank of America to re-attach the July 1, 1934 coupons PURCHASED FROM YOU to their respective bonds, IT BEING OF COURSE, UNDERSTOOD THAT IF FOR ANY REASON THE FEDERAL RESERVE BANK SHOULD FAIL TO COMPLETE THE PURCHASE OF SAID BONDS, THE SAID JULY 1, 1934 COUPONS ARE TO BE CONSIDERED AS PAID AND SURRENDERED BY YOU TO US FOR CANCELLATION WITHOUT FURTHER CONSIDERATION."

Upon December 24, 1934, the Secretary wrote the Bank of America, Chico, delivering a check of the District of the same date to the Bank, in the sum of \$3,730, in payment of 373 matured interest coupons (\$15.00 coupons being counted as one-half coupon) of the district of January 1 and July 1, 1934 maturity. The Secretary further instructed the Bank: "YOU ARE INSTRUCTED TO DELIVER TO US FOR CANCELLATION SAID COUPONS OF JANUARY 1, 1934 MATURITY, AND

(Testimony of Harry B. Noble.)

RE-ATTACH TO THEIR RESPECTIVE BONDS SAID COUPONS OF JULY 1, 1934 MATURITY." The foregoing instructions were carried out by the depositary, the Bank of America, Chico Branch.

* * * * *

The only record upon the minutes of the Board of Directors of the transaction in question is in the minutes of the meeting of June 12, 1934, and **CONSISTS OF A RECITATION OF** a resolution of the Bondholders Protective Committee, and is as follows:

"The District will pay, THROUGH FUNDS OBTAINED from the R. F. C., the sum of \$525.21 per \$1000 bond (\$262.60 per \$500.00 bond) delivered to the depositary, accompanied by January 1934 and all subsequent coupons, PLUS INTEREST AT 4% ON THE PURCHASE PRICE FROM JULY 1, 1934, UNTIL THE MONEY IS PAID. Coupons that have been turned in to the District will apply.

"The District will, in accordance with the arrangement heretofore made with the Committee, pay the Committee \$10.00 per coupon for coupons of January and July 1934 maturity held by it. [108]

"Resolved that this Committee, as individuals, accepts settlement on the terms as outlined above, and that it will promptly

(Testimony of Harry B. Noble.)

upon receipt of advices that the depositary has been selected, urge all bondholders to do likewise, and will make every effort to induce deposit of bonds.

"Dated this 8th day of June, 1934.

"(signed) GEORGE STEPHENS

Secretary

"(signed) WICKHAM QUINAN

"(signed) FRANK P. DOYLE

Members of Committee."

Following the recitation of the foregoing resolution in such minutes, the following appears therein, as follows, to wit:

"After discussion of the matter it was moved by Wegner, seconded by Conrow and carried, that the proposal of the Paradise Irrigation District Bondholders' Protective Committee, relative to acceptance of settlement of the bonded indebtedness of this district **FROM PROCEEDS OF LOAN FROM RECONSTRUCTION FINANCE CORPORATION** as set out in Resolution of said Committee, dated June 8th, 1934, be accepted, with the proviso that interest at four per cent on the settlement price from July 1st, 1934 be paid, either until the money is disbursed to the bondholders or until interest to the Reconstruction Finance Corporation commences, whichever may first occur."

(Testimony of Harry B. Noble.)

The final result was that the district paid \$33,370 for 373 interest coupons maturing July 1, 1934. This amount included 50 interest coupons owned by J. R. Mason, whose bonds pertaining to said coupons were not deposited. When the bonds of the bondholders committee were taken up with moneys loaned by the R. F. C. at the rate of 52.521 cents on the dollar, no deduction was made for the moneys which had been paid upon the interest coupons of July 1, 1934.

"Subsequently, the bonds deposited by the Bondholders Committee were taken up with monies loaned by the Reconstruction Finance Corporation at the rate of 52.521 cents on the dollar; although the Bondholders Committee had been paid \$10.00 for each interest coupon in its hands due July 1, 1934, yet, nevertheless, no deduction was made in any sum at the time of settlement therefor, whereas, if the coupons had been detached and marked paid, the sum of \$30.00 (the face value) would have been deducted.

The so-called Mason bonds did not participate in the composition and were and still are "non-accepting" bonds. The July 1, 1934 interest coupons on the Mason Bonds were in the hands of the Bondholders Committee and the Mason [109] interests received \$10.00 for each of such coupons, the same as others who had deposited with the Committee. However, the Mason coupons were marked paid and surren-

(Testimony of Harry B. Noble.)

dered and cancelled and he will obtain no further sum on such coupons, whereas, the remaining members of the Bondholders Committee not only received \$10.00 for each of such coupons, but in addition received in effect \$30.00 additional (if they had been marked paid and were detached the sum of \$30.00 each would have been deducted from the settlement figure on each bond).

The apparent effect of the foregoing transaction was:

1. That the District paid to the members of the Bondholders Committee that deposited their bonds for composition, the sum of \$40.00 for each interest coupon due July 1, 1934, the face value of which was the sum of \$30.00.
2. That there was a discrimination shown in respect to the bondholders in that the depositing bondholders received, in effect, the sum of \$40.00 for each of the interest coupons due July 1, 1934, whereas the Mason non-depositing bondholders received but the sum of \$10.00.
3. That there was a loss to the District in the transaction, either in the sum of \$10.00, the excess payment made on the July 1, 1934, interest coupons to the depositing bondholders, or, in the event the payment of \$10.00 therefor paid and cancelled such coupons, then in the sum of \$30.00 for each of such

(Testimony of Harry B. Noble.)

coupons, the effect being in the latter case, to increase the bonded indebtedness of the District; there were 323 of such coupons."

The bondholders who did not deposit their bonds were J. R. Mason and the James H. Jordan Co., owning bonds in the face amount of \$29,000.

The report went on to recite the difficulties the district has had with its water distribution system.

Pages 44 through 53 were exhibits attached to the report, being certain letters as follows:

The first was a letter from George Stephens of the Bondholders Protective Committee to H. S. Clewett, Secretary of the district, dated October 24, 1934, referring to the question of the payment of \$10.00 on July 1, 1934, and stating:

"It is my firm belief that the best thing for you to do now is to have these coupons shipped up there, make payment in accordance with arrangement, your ground [110] being if the question is ever raised, that having no response to your letter written away back on September 17, you had naturally assumed that your explanation was satisfactory. This will make it very much easier for the R. F. C. officials. I don't think you should under any circumstances again raise the point in Washington or ask for a further reply. And I think the sooner it is done the sooner you will be on your way toward final and early consummation. Bondholders are not going to permit their bonds to go out until

(Testimony of Harry B. Noble.)

the payment is made. I think the R. F. C. is going to be ready to make disbursement pretty soon. Bondholders are asking in some districts that the equivalent of 4% on the new loan be paid to the old bondholders in instances where no interest has been being paid since default, and Washington is naturally shying at this. Your 4% is nothing more nor less than a continuation of your theretofore paid 2% on the original indebtedness and as such is logical and proper. But, again, if Washington had to give a decision, the item being set at 4% will make many explanations to other applicants necessary and be embarrassing to the officials.

Please let me know your views promptly."

Pages 47 and 48 were a letter from H. S. Clewett to the Bondholders' Committee, dated October 25, 1934, reading in part:

"My last letter from Mr. Keenan under date of October 11th reads as follows:

"I understand from your letter of September 17th and previous correspondence that the expenses incurred by the Bondholders' Committee will be taken care of by the District through the purchase of interest coupons which fell due in 1934. If this is correct, we have no objection to the District buying in these coupons provided it is financially able to assume this additional obligation. You are therefore asked to submit a statement of the District's financial operations for the period from January 1st, 1934 to date.

(Testimony of Harry B. Noble.)

"Upon receipt of this statement we will consider the matter of the payment by the District to all depositing bondholders of interest from July 1st, 1934 at the rate of 4% based on the purchase price set forth in our Resolution."

Page 49 was another letter from George Stephens to Mr. Clewett dated October 30, 1934, reading in part as follows:

"Yours 29th. I don't think it is safe to hold out on the Mason-Masten bonds. You will have enough trouble with Mason before you get through, and he would be only too happy to find an instance of inequality upon which to hang his further activities. By all means let us make him a party to our transaction by disbursing to him just the same as to all other depositors. As a matter of fact he is a coupon depositor with this Committee, and there is no connection between his agreement to the interest adjustment [111] and his non-agreement to the principal adjustment. I don't care what happens to MacDonald, but I have an idea he must be taking his advice from Mason, otherwise he wouldn't have the courage to hold out with two bonds, and I think this small instance might be just as useful to Mason as his own. If Mason is going to be outside of our camp he can stir up all sorts of things with Plotts if he were aggravated to that point. Regardless

(Testimony of Harry B. Noble.)

of the fact that he may not presently come in I do not believe that he will go out openly and fight me unless, of course I should do something he considers unfair to him."

Page 50 was another letter from George Stephens to Mr. Clewett dated October 30, 1934, reading in part as follows:

You are doing very wrong if you report to Washington any other status of coupons in hands of Bondholders Committee than that in accordance with the data given you. This office has no interest in Mr. Mason, but it has a deep interest, as it ever had had, in fulfilling its obligations, either written or oral, to the letter thereof. Mr. Mason joined with the others in an interest adjustment with the District. To this extent he is no different than any other bondholder who joined with this Committee, and he received the same reports as to adjustments and settlements as issued to all other bondholders, and of course he is entitled to receive the same treatment as they. The fact that, while agreeing with the interest adjustment, he later did not agree with the plan of principal adjustment, is an entirely separate and distinct matter, having no bearing whatever upon the earlier transaction.

So much for the fairness and justice of the matter, which will govern us under any circumstances. Now as to the practicalities.

(Testimony of Harry B. Noble.)

You underestimate what Mason is doing in California, and what he can do in your case. There is no need for me to go into these details. You must credit this office with being in position to know pretty much what is going on in Government refinancing activities. Many transactions are not going through that could go through. After Mason came in on the interest adjustment, which is one of the very few instances where he has ever gone so far, any attempt to accord him different treatment than the others who joined in the same adjustment will put tools in his hands that I am afraid you would find very costly. Your expressed thought that the small amount of money might be useful to Mr. Mason is not in point. Mr. Mason has all the money he needs to carry on his activities. The place to hold Mason is as a party to your transaction. In the end he is very likely to go the whole way."

Page 52 was a letter from George Stephens to J. E. Alley, a member of the Board of Directors of the District, dated November 6, 1934 and reading in part as follows: [112]

"What's got into Clewett? For the past month or two he has been picking at little things and writing long letters of thinly veiled criticism of me and this office. He has some idea that the 1933 interest payment has to be

(Testimony of Harry B. Noble.)

adjusted. A simple reading of the resolution sets up the transaction clearly. Because we later set aside a reserve against non-depositors at the ratio that all outstanding bonds bore to the round sum remaining in Bond Fund which was accepted in settlement, \$4189.33, which figures \$8.80 per bond, he now claims there was "over payment". The fact that this settlement as recited in resolution, was since accounted and reported to all bondholders seems to make no difference.

Now he has jumped to the idea that Mason, who joined in the interest adjustment, but who later did not concur in the principal adjustment, should not receive the final disbursement on interest adjustment. I hold no brief for Mason, as you well know, but this isn't a matter of personalities. Mason is *entitled* to the interest disbursement. That's all there is to it.

Both these items obviously base on an endeavor to save his District some money and as such may be praiseworthy, but both entail abrogation of agreements—agreements accounted, audited and reported to bondholders. And the sum of money involved might be said to be almost negligible.

In the Mason instance, entirely aside from the matter of justice, is the matter of what Mason could, and I am very sure would, do if anyone attempted to accord him different treat-

(Testimony of Harry B. Noble.)

ment than the others. I KNOW what he can do, and I don't relish it, and your district would relish it less. And it is smart to have him a party to our transaction, if only the first part of it. He won't then be likely to obstruct us, but more likely to eventually come along with his bonds."

Page 54 was an exhibit attached to the report showing the number of repairs to the district's pipeline from 1928 to 1938, a copy of which is set forth on page 18a.

Page 55 was a resume of the annual reports of the district, a copy of which is set forth on page 18b.

Page 56 read:

"EXHIBIT "I"

Present Financial Condition:

Bond Interest Fund:

| | |
|---------------------------|-----------|
| Balance February 29, 1932 | \$ 171.11 |
| Outstanding coupons | 2,745.00 |

Bond Principal Fund:

| | |
|-----------------------------|-----------|
| Balance February 29, 1932 | \$ 640.23 |
| Unpaid Principal | 0.00 |
| Bonds maturing July 1, 1932 | 2,000.00 |

Construction Fund:

| | |
|--------------------------------|-----------|
| Balance February 29, 1932..... | 15,000.00 |
| (not transferable) | |

General Fund:

| | |
|--------------------------------|----------|
| Balance February 29, 1932..... | 4,763.95 |
| Outstanding warrants..... | 0.00 |

EXHIBIT "F"

MONTHLY PIPELINE REPAIRS

| | 1928 | 1929 | 1930 | 1931 | 1932 | 1933 | 1934 | 1935 | 1936 | 1937 | 1938 |
|----------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| | B-C |
| January..... | 19 nr+ | 36 nr+ | 19 nr+ | 30 nr+ | 23 nr+ | 25 nr+ | 26 nr+ | 26 nr+ | 27 nr+ | 46 nr+ | 68 nr+ |
| February..... | 28 | 31 | 31 | 47 | 48 | 115 | 39 | 47 | 23 | 50 | 6 |
| March..... | 16 | 35 | 23 | 66 | 92 | 36 | 52 | 26 | 66 | 121 | 33 |
| April..... | 31 | 29 | nr+ | 72 | 71 | 70 | 112 | 39 | 86 | 62 | 45 |
| May..... | 78 | 52 | 56 | 54 | 85 | 53 | 64 | 122 | 173 | 51 | 81 |
| June..... | 52 | 82 | 61 | 104 | 88 | 108 | 55 | 98 | 69 | 65 | 122 |
| July..... | 32 | 43 | 67 | 59 | 96 | 80 | 15 | 71 | 42 | 72 | 77 |
| August..... | 18 | 92 | 45 | 70 | 128 | 46 | 78 | 85 | 78 | 51 | 50 |
| September..... | 53 | 109 | 63 | 77 | nr+ | 58 | 70 | 70 | 75 | 110 | 82 |
| October..... | 27 | 48 | 41 | 106 | 66 | 74 | 101 | 85 | 77 | 46 | 48 |
| November..... | 26 | 86 | 36 | 72 | 67 | 73 | 60 | 26 | 50 | 38 | 20 |
| December..... | 19 | 46 | 41 | 41 | 48 | 57 | 124 | 29 | 9 | 23 | 7 |
| | | | | | | | | | | | |

B—"Breaks"—repaired—see Schedule "G".

C—Collars—i. e. jointure of pipe lengths—see "G" 3.

+No record.

[14]

EXHIBIT "H"

RESUME OF ANNUAL REPORTS OF THE DISTRICT

| Annual Reports Dated | Outstanding | BONDS Cancelled | (for taxes) Valuation | Annual Levy | ASSESSMENTS | | GENERAL FUND | | CONSTRUCTION FUND | | ALL FUNDS (except RFC reserve) |
|---|-------------|--------------------|--------------------------|----------------|---|------------------------------|--|----------------------------------|-------------------|----------------------------|-----------------------------------|
| | | | | | Bond & Int. Income | Bond and Int. Expenditure | Income | Disburse- ments | Balances | Expenditures | Total Income |
| 1926 Dec. 31st | 487 | | | | 12,311.88 | | 2,932.69 | | 35,509.37 | | |
| 1927 | 487,000 | 1,000 | 613,000 | 46,390.17 | 31,608.72 | 29,920 | 12,506.64 | 12,896.76 | (Int.) 1,283.72 | 36,793.59 | 2,038.65 |
| 1928 | 486,000 | 2,000 | 618,525 | 46,516.16 | 30,225.27 | 30,475 | 13,849.44 | 13,105.86 | 34,754.94 | 4,939.16 | 44,074.71 |
| Fund Trans- fers, '29 | | | | | | | (Fr. Const. Fund 3,000) | | | (To Gen. Fund) 3,000 | |
| Fund Trans- fers, '30 | 484,000 | 2,000 | 620,203 | 46,600.20 | 27,701.50 | 31,325 | 12,729.66 | 15,805.36 | 26,815.78 | | (To Gen. Fund) 2,000 |
| Fund Trans- fers, '31 | 482,000 | 2,000 | 621,332 | 46,072 | 25,606.21 | 31,100 | 11,701.36 | 14,795.50 | 22,926.16 | 1,889.62 | 37,307.57 |
| Fund Trans- fers, '32 | 480,000 | 2,000 | 615,439 | 44,980 | (From Gen. Fund.) 5,000 | | (Fr. Const Fund to Bond Fund) 6,742.24 | | | (To Gen. Fund) 6,742.24 | |
| Fund Trans- fers, '33 | 478,000 | 1,000 | 563,997 | 42,185 | 24,515.60 | 30,770 | 13,800.11 | 14,190.73 | 15,000 | 1,183.92 | 38,376.71 |
| Fund Trans- fers, '34 | 477,000 | 560 | 536,012 | 34,170 | 17,765.55 | 17,895.14 | 19,865.86 | 15,002.50 | 13,000 | | 30,722.24 |
| Fund Trans- fers, '35 | 476,000 | | 363,277 | 13,622 | (To Gen. Fund) 10,301.52 | 1,686.52 | 10,614.59 | 12,720.60 | 10,000 | | 28,380.14 |
| Fund Trans- fers, '36 | | | | | 12,751.83 | 22,405.84 | (Fr. Const fund) 6,000.00 | (To bond int. fund) 10,301.52 | | | |
| Fund Trans- fers, '37 | | | | | (To Gen. Fund) 23,053.35 | 2,500 | 20,214.54 | 16,558.15 | 4,250 | (Fr. Gen. Fund) 2,500 | 32,966.37 |
| Fiscal year 1935, Bond Interest requirements reducing by Refinancing. | | | | | \$36,000 and Refinancing = \$233,643.66 at 4% | | (Fr. const. fund) 3,750 | (To const. fund) 2,500 | | | |
| 1935 | 263,643.66 | | 387,611 | 12,728.83 | 12,872.78 | 9,707.94 | (Fr. bond & int.) 2,500 | | | | |
| 1936 | 263,168.87 | | 357,215 | 10,514 | 9,581.02 | 5,734.45 | Original Bond issues at 6% interest. 13,814.82 | 18,005.71 | 3,000 | | 27,606.30 |
| Fund Trans- fers, '37 | | | | | | | 16,859.32 | 16,671.04 | 3,000 | | 26,390.34 |
| 1937 | 263,168.87 | | 360,071 | 11,477 | 10,685.06 | 11,312.85 | (Fr. Const. Fund) 3,000 | | | | |
| 1938 | | | 359,608 | 11,462.51 | 10,561.06 | None. | 27,184.49 | 25,915.99 | 0,000 | (To Gen. Fund) 3,000 | (3,000.00) (37,819.55) |
| | | | | | | | 30,184.49 | (To RFC Reserve) 1,958.29 | | | 40,819.55 |
| | | | | | | | 31,425.61 | 30,600.42 | 0,000 | | 41,986.67 |

EXHIBIT "H"

RESUME OF ANNUAL REPORTS OF THE DISTRICT

| GENERAL FUND Income | Disburse- ments | CONSTRUCTION FUND | | ALL FUNDS (except RFC reserve) | | RFC RESERVE FUND | | REHABILITATION WOOD-STAVE PIPE | | DISTRICT LANDS | | | |
|--|------------------------------|-------------------|--------------------------|-----------------------------------|--------------------------|------------------|--------------|---|----------|-------------------|-------------------------------|-----------------------------------|------------------------------------|
| | | Balances | Expenditures | Total Income | Total Dis- bursements | Balances | Expenditures | Half repair crew chg'd up to date watermaster began water distribution | SERA-WPA | CAPITAL IMPVTS | Acreage on Assessment Roll | Acreage Tax Deeded to District | Land Sales (shown in Gen. Fund) |
| 2,932.69 | | 35,509.37 | | | | | | | | | | | |
| 12,596.64 | 12,896.76 | (Int.) 1,283.72 | 36,793.59 | 2,038.65 | 44,115.36 | 44,855.41 | | 1,904.96 | | | | | |
| 13,849.44 | 13,105.86 | | 34,754.94 | 4,939.16 | 44,074.71 | 48,520.02 | | 2,304.85 | | | | | |
| (Fr. Const. Fund 3,000. | | | | (To Gen. Fund) 3,000. | | | | | | | | | |
| 12,729.66 | 15,805.36 | | 26,815.78 | | | | | | | | | | |
| (Fr. Const. Fund 2,000 | | | | (To Gen. Fund) 2,000 | | | | | | | | | |
| 11,701.36 | 14,795.50 | | 22,926.16 | 1,889.62 | 37,307.57 | 47,785.12 | | | | | | | |
| (Fr. Const Fund to Bond Fund) 6,742.24 | 5,000 | | | (To Gen. Fund) 6,742.24 | | | | | | | | | |
| 13,800.11 | 14,190.73 | | 15,000 | 1,183.92 | 38,376.71 | 46,144.65 | | | | | | | |
| (Fr. Const. Fund 2,000.00 | | | | (To Gen. Fund) 2,000. | | | | | | | | | |
| 10,865.86 | 15,002.50 | | 13,000 | | 30,722.24 | 34,660.98 | | | | | | | |
| Fr. Const. Fund) 3,000 | | | | (To Gen. Fund) 3,000 | | | | | | | | | |
| 10,614.59 | 12,720.60 | | 10,000 | | 28,380.14 | 30,615.74 | | | | | | | |
| (Fr. bond & int.) | (To Const. Fund) | | | | | | | | | | | | |
| 1,686.52 | 2,500 | | | | | | | | | | | | |
| (Fr. Const fund) (To bond int. fund) 6,000.00 | 10,301.52 | | | (To Gen. Fund) 6,000 | | | | | | | | | |
| 20,214.54 | 16,558.15 | | 4,250 | | 32,966.37 | 39,963.99 | | | | | | | |
| (Fr. const. fund) (To const. fund) 3,750 | 2,500 | | (Fr. Gen. Fund) 2,500 | (To Gen. Fund) 3,750 | | | | | | | | | |
| (Fr. bond & int.) 2,500 | | | | | | | | | | | | | |
| Original Bond issues at 6% interest. | | | | | | | | | | | | | |
| 13,814.82 | 18,005.71 | | 3,000 | | 27,713.65 | 918.70 | | | | | | | |
| 16,859.32 | 16,671.04 | | 3,000 | | 22,405.49 | 2,895.32 | | | | | | | |
| (Fr. Const. Fund) 3,000 | | | | (To Gen. Fund) 3,000. | | | | | | | | | |
| 27,184.49 | 25,915.99 | | 0,000 | | 26,390.34 | | | | | | | | |
| | | | | | (-3,000.00) | | | | | | | | |
| | | | | | (37,819.55) | | | | | | | | |
| | | | | | | | | | | | | | |
| 30,184.49 | (To RFC Reserve) 1,958.29 | | | | | | | | | | | | |
| 31,425.61 | 30,600.42 | | 0,000 | | 40,819.55 | | | | | | | | |
| | | | | | | | | | | | | | |
| | | | | | 41,986.67 | | | | | | | | |

[114A]



(Testimony of Harry B. Noble.)

Reasons for Default: (Tax delinquencies)

This is to some extent a matter of opinion and in this light the following are listed:

Inclusion of too much un tillable land within the District.

Timber and brush on land requiring expensive clearing.
Too many large acreages.

Tax rate too low.

No allowance for anticipated delinquency.

Dry year and poor markets.

A combination of low priced land and low water rate that has attracted many people of insufficient means to carry on.

Delinquencies, etc.

| Year | Valuation | Levy | To Feb. 29, '32 including penalties | Delinquent | |
|------|-----------|--------|---|------------|-------|
| 1921 | 610,000 | 36,583 | 36,954 | | |
| 1922 | 614,748 | 36,884 | 36,124 | \$ 760 | 2% |
| 1923 | 613,893 | 36,829 | 35,903 | 926 | 2.5% |
| 1924 | 613,784 | 46,026 | 44,329 | 1,687 | 3.7% |
| 1925 | 612,802 | 45,959 | 43,699 | 2,260 | 4.9% |
| 1926 | 613,010 | 45,978 | 42,230 | 3,748 | 8.1% |
| 1927 | 618,525 | 46,381 | 38,421 | 7,960 | 17.0% |
| 1928 | 620,270 | 46,516 | 38,644 | 7,872 | 16.9% |
| 1929 | 620,644 | 46,600 | 36,440 | 10,160 | 21.8% |
| 1930 | 615,439 | 46,072 | 32,542 | 13,530 | 28.0% |

EXHIBIT "J"

Total Bond Debt and Book Value of Irrigation Works:

| | |
|-------------------------|--------------|
| 1. First Issue | \$350,000.00 |
| Second Issue | 140,000.00 |
| Total Bond Indebtedness | \$490,000.00 |
| Bond Sale Commissions | 11,676.00 |
| Net Funds to District | \$478,324.00 |

(Testimony of Harry B. Noble.)

2. Book Value of System:

| | |
|-----------------------------|--------------|
| Reservoir and Appurtenances | \$178,354.62 |
| Distribution System | 270,153.60 |

\$448,508.22

Balance in Construction Fund January 1,
1929

\$ 29,815.78

3. Distribution system is 60.23% of total cost of irrigation works."

Page 57 was a resolution of the Board of Directors of the District approving and adopting the report which made up the major part of Exhibit 8.

NEWCOMB C. McCARTHY

was called as a witness for petitioner and testified: That he lived in the District for 22 years. An acre foot and a half of water is needed for the proper irrigation of apples. Such amount, the growers do not get. Almonds require between an acre foot and an acre foot and a half. Berries require an acre foot. Potatoes require at least two acre feet. Walnuts require at least three acre feet to produce a crop that will pay. Truck gardens require at least two acre feet of water. The average requirement for production of crops in the District is two acre feet in order to raise a profitable crop.

The District has available about 3600 acre feet of water. About 2500 acres are irrigated in the District. In his opinion, The District cannot meet 6% interest upon \$476,000 of bonded indebtedness.

LEVI P. FISHER

was called as a witness for petitioner and testified: That he lives in the District and has owned property therein 13 years. He raises, principally, apples, and the average price received has been 60 to 65 cents. Cost of production is 46 to 47½ cents, exclusive of his labor. In 1937 he had 2300 packed boxes of apples. The price returned to him above the packing house costs was \$778. The cost of production of the crop was \$487, exclusive of his own labor. In 1938 the crop was 750 boxes sold at the ranch for an average of 75 cents [83] per box. Cost of production was between 38 and 40 cents per box.

The hearing was then adjourned until March 20, 1939, at which time the petitioner offered further evidence as follows:

Letter, dated March 16, 1937 from the R. F. C. to H. S. Clewett, was received in evidence as Petitioner's Exhibit 9.

It was stipulated that the District requested that the bonds held by the R. F. C. be registered under the Statute of 1913, (ch. 23), and they were registered in the name of the R. F. C. on July 1, 1936, at the suggestion of the attorney for the District. From the time the loan was disbursed until July 1, 1936, none of the bonds had ever been registered through or by the R. F. C. prior to the time this suggestion was made.

HOWARD S. CLEWETT

was then recalled as a witness and testified that he was secretary of the District from 1933 to March, 1935, and was attorney for the District up to 1936. A letter dated June 5, 1936, from H. S. Clewett to the R. F. C. was received in evidence as Petitioner's Exhibit 10 relative to the purchase of bonds by the R. F. C., subject to respondent's objection that it contained a conclusion of the writer.

PETITIONER'S EXHIBIT 10:

Petitioner's Exhibit 10 was a letter dated June 5, 1936, written by H. W. Clewett to Emil Schram of the R. F. C. Washington, D. C., reading in part as follows: [115]

"All except \$30,000.00 par value of bonds of this district were sold to and are now held by your corporation under the readjustment plan, and twenty-nine of the thirty dissenting bonds are controlled by J. Rupert Mason who will avail himself of every possible legal leverage to force payment in full of both principal and interest.

None of his bonds have as yet matured although three of them will mature July 1, 1937. There are, however, outstanding unpaid matured interest coupons commencing with January 1, 1935, on all except three bonds and commencing with July 1, 1934, on those three making a total of 119 outstanding matured interest coupons including the July 1, 1936 maturity of

(Testimony of Howard S. Clewett.)

\$30.00 face value each, of a total of \$3570.00.

Mr. Mason has consistently followed the practice of registering these coupons as they fall due although he knew they would not be paid and they are now all registered with the exception of the July 1, 1936 maturity and with the possible exception of the January 1, 1936 maturity, so that he holds either \$1830.00 or \$2700.00 of registered matured interest coupons and upon registering the July 1st maturity will hold \$3570.00 thereof.

When the bonds purchased by your corporation were delivered to the Federal Reserve Bank, a considerable part of the then matured interest coupons had been registered and were entitled to priority in payment over the subsequent registered coupons of Mr. Mason but as the Federal Reserve Bank has been surrendering these coupons in an amount equal in face value to the interest payments made by the District on the advances made by you in purchase thereof, probably the greater part of the registered coupons entitled to priority of payment have been surrendered and if not, soon will be and the District will be in a position of having no valid legal defense to interpose if Mr. Mason commences a suit against the Treasurer to compel payment of his interest coupons.

In my opinion, it is therefore extremely important that you instruct the Federal Reserve

(Testimony of Howard S. Clewett.)

Bank to immediately detach from the bonds which it holds and send to the District for registration all matured interest coupons which it holds so that they can be registered ahead of the July 1, 1936 maturity of Mr. Mason, and at the same time, I think they should send in the July 1, 1936 maturity on your bonds and we will register them first on July 1st which will place them ahead of any subsequent registrations."

Over objection of respondent that it was a conclusion of the witness, he further testified that he knew the bonds were purchased by the R. F. C. because he arranged the transaction. The bonds were deposited in escrow with the Bank of America and the bank sent them by registered mail to the Federal Reserve Bank in San Francisco. As secretary he had to go to San Francisco, and in the vault of the bank examined each individual bond and signed a certificate that it was a valid, outstanding obligation of the District. After that the Federal Reserve Bank issued to the Bank of America at Chico its draft covering the bonds which he had so certified.

The contracts authorized by a resolution of the Board of Directors of the District, a copy of which contracts appears in Petitioner's Exhibit 3, were signed by the president and [84] secretary and by the officers of the R. F. C.

(Testimony of Howard S. Clewett.)

PETITIONER'S EXHIBIT 11:

Petitioner's Exhibit 11 was a letter dated March 13, 1935, from H. A. Mulligan, Treasurer of the R. F. C., to the Federal Reserve Bank of San Francisco, giving instructions as to payment for two bonds and reading in part: [116]

"A certificate will be presented to you by the Treasurer of Paradise Irrigation District, setting forth which coupons have been paid on the above-mentioned two bonds. In the event any interest coupons are missing which do not appear from the certificate just mentioned as having been paid, deductions shall be made on account of each such missing coupon at the rate provided in our letter of December 17, 1934."

The letter also contained instructions as to payment of interest to the R. F. C., as follows:

"Therefore, hereafter, on July 1, and January 1, of each year you should present for payment in accordance with their terms, matured interest coupons of the earliest maturity dates, in face amount as nearly as possible equal to; but in no event less than interest at 4% per annum accrued and unpaid upon the aggregate amount disbursed pursuant to this letter and the letter of December 17, 1934. The amount collected on account of such coupons should exactly equal the amount of such interest. If

(Testimony of Howard S. Clewett.)

partial payment upon one of such coupons is necessitated, a credit in the amount of such payment should be endorsed on such coupon and it should be retained by you until fully paid."

A letter dated March 13, 1935 from the R. F. C. to the Federal Reserve Bank was received in evidence as Petitioner's Exhibit 12.

Upon

Cross Examination,

the witness testified that after the R. F. C. disbursed the money before July 1936, it presented coupons for payment but not bonds, to the best of the knowledge of the witness. He ceased to be secretary in March 1934. It presented enough coupons when they collected the semi-annual interest to approximately equal that amount of interest. Other than that, they did not present any coupons or bonds until July 1, 1936, when they were all presented for registration.

The resolution of the R. F. C., adopted April 6, 1938, was received in evidence as Petitioner's Exhibit 13.

JAMES B. THOMPSON

was recalled as a witness for petitioner and testified that, during his term as secretary and superintendent of the district, the old bonds of the District were kept in the Federal Reserve Bank in San Francisco, and so far as the witness knew the District did not have access to them nor were they in his custody or care nor in the care of any officer of the District, to his knowledge.

Petitioner rested.

It was also stipulated that there is pending in the Superior Court of Stanislaus County certain proceedings for writ of mandate brought by J. R. Mason and E. Masten against the District and some of its officers. That the District and its officers made an appearance in that case and an injunction staying proceedings was issued by this Court, and the matter remained in that position.

The alternative writ of mandamus and petition and points and authorities were received in evidence as Respondent's Exhibit 5. [85]

RESPONDENT'S EXHIBIT No. 5:

Respondent's Exhibit 5 was a copy of petition for writ of mandamus, points and authorities and alternative writ of mandamus in the case of J. R. Mason and E. Masten, Petitioners, v. Paradise Irrigation District, the Board of Directors of Paradise

(Testimony of James B. Thompson.)

Irrigation District, W. S. Clark as Treasurer of Paradise Irrigation District, and J. B. Thompson as Secretary of Paradise [120] Irrigation District, Respondents, in the Superior Court of the State of California; in and for the County of Stanislaus. The Alternative Writ of Mandamus reads in part as follows:

"Whereas, it appears by the verified petition of J. R. Mason and E. Masten, verified by J. R. Mason, the persons beneficially interested therein, that you, Paradise Irrigation District, the Board of Directors of Paradise Irrigation District, W. S. Clark as Treasurer of Paradise Irrigation District, and J. B. Thompson as Secretary of Paradise Irrigation District, refuse to pay bonds and interest coupons in the sum of \$5610.00, with interest at 7% per annum from the time of presentation thereof; due and held by said petitioners, and it appears from said petition that the petitioners therein are entitled to payment out of the bond fund and bond interest fund of said district, or if funds belonging thereto are not in said fund, then to have such funds transferred to the bond fund and bond interest fund of said district and applied upon the payment of the bonds and coupons of said petitioners.

And it further appearing that there are no other obligations on the bonds of said district which are due or will become due before January 1, 1938.

(Testimony of James B. Thompson.)

We command you that out of the funds in the bond fund or bond interest fund of said district you pay the said sum to petitioners, or if sufficient funds be not in said funds of said district then that you transfer whatever funds of said district which properly belong in said funds thereto and apply the same upon the payment of said bonds, coupons and interest of said petitioners, or if there be not sufficient funds for payment thereof, that you levy such assessments against the lands of said district to pay the same, and that you continue from year to year to levy such assessments as may be necessary for the payment of the obligations arising upon said bonds and the coupons attached thereto, or you and each of you will show cause before this Court in the courtroom thereof in Modesto, California, on the 27th day of December, 1937, at 1:30 o'clock P. M. of that day why you have not done so."

JAMES B. THOMPSON

was recalled at a witness, this time for respondent, and this time testified: Pursuant to the resolution of the R. F. C. granting the loan to the District the District made certain semi-annual reports to the R. F. C. Also pursuant to the resolution, the District submitted its budget each year to the R. F. C.

(Testimony of James B. Thompson.)
for inspection and approval before the levies were made.

Words and figures from the balance sheet for the period ending December 31, 1935, were read into evidence. The sheet showed capital assets, general properties, \$441,000, total capital assets \$451,000; Capital liabilities, \$252,500, Capital Surplus, \$157,554.91. These latter two were admitted over the objection of petitioner.

There was read into evidence from the financial statement as of July 1, 1936, the following: Liabilities—Capital Bond Account, R.F.C., \$252,500; Bond Account, Mason, \$29,000. Bond Account, unknown, \$1,000. Land deeded to the District for taxes, \$160,430, making a total of \$448,930. Objection of petitioner to these was overruled.

The witness stated that the statement was correct.

A letter dated December 3, 1936, on the letterhead of the R.F.C., Washington, and addressed to J. B. Thompson, Secretary of the Paradise Irrigation District, was read into evidence as follows:

"We are enclosing herewith blank forms to be used in submitting six copies of the next semi-annual report for the above named district covering the period July 1, 1936 to January 1, 1937, and we greatly appreciate your cooperation in a prompt submission of this report."

(Testimony of James B. Thompson.)

The following from the report of January 1, 1937, was read in evidence:

"Complete detailed financial statement"

With the first division being "Assets". Total current assets listed here \$27,164.62. Next division is current liabilities, [86] total \$9,478.11. Next division is capital assets; general properties \$448,500 and "other items including assessment roll: Land carried, \$351,215. Total capital assets \$818,130.35". Then the last period reports "Total capital assets, capital liabilities, bond account R.F.C. \$233,643.66. Bond account Mason, \$29,000; bond account unknown, \$1,000. Land deeded to the district for taxes, \$141,020. Depreciation of pipe, line, 6%, \$6,000; Total, \$410,603.66."

The witness testified there was an item on the book called "R.F.C. Reserve", a reserve built up for contingencies to meet the total requirements of the bonds plus interest.

A letter from the R. F. C. to J. B. Thompson, secretary of the District, dated April 22, 1936, was received in evidence as Respondent's Exhibit 6.

A letter from the R. F. C., Washington, headlined San Francisco, California, January 9, 1937, to the Paradise Irrigation District was received in evidence as Respondent's Exhibit 7.

The resolution contained on page 34 of minute book No. 3 of the Paradise Irrigation District was received in evidence as Respondent's Exhibit 8. Resolutions on page 34, being the portions particu-

(Testimony of James B. Thompson.)

larily referred to by respondent. On page 55 of the same minute book, dated August 30, 1937, the following resolution was read in evidence.

"It was moved, seconded and carried that the secretary be authorized to advise the R. F. C. that \$29,000 of original bond issues are outstanding and unrefinanced."

From minute book No. 2, which is the District's Exhibit No. 3, page 177 was received in evidence, and from page 187 the following was read in evidence:

"Be it further resolved that all money received from tax redemption and applicable to bond interest fund be and the same is ordered credited to R. F. C. bond reserve fund." [87]

Pages 282, 186 and a resolution commencing on page 249 and ending at the top of page 250 were also received in evidence.

Financial statement as of December 31, 1938, was received in evidence as Respondent's Exhibit 9.

It was stipulated that page 249 of minute book No. 2 was a resolution levying assessments for that year, 1936. That page 61 of minute book No. 3 is the tax levying assessment adopted September 1937, for the year 1938.

From minute book No. 3 a resolution commencing in the middle of page 61 and ending on the top of page 62 was received in evidence. Also a report rendered to the R. F. C. commencing page 152 of

(Testimony of James B. Thompson.)

minute book No. 3. Also resolution commencing bottom of page 238 and ending at middle of page 239 of minute book No. 2, which was the tax levying assessment for the year 1939.

Letter with a heading Reconstruction Finance Corporation, April 30, 1938, to Paradise Irrigation District was received in evidence as Respondent's Exhibit 10.

RESPONDENT'S EXHIBIT 10:

Respondent's Exhibit 10 was a letter from the Reconstruction Finance Corporation to the Paradise Irrigation District, dated April 30, 1938, reading in part as follows:

"We are making our regular audit of the SAN FRANCISCO Custodian of the Reconstruction Finance Corporation as at the close of business APRIL 18, 1938 and submit the following data with respect to the status of the above-numbered loan at that date, as reflected on the records of the Custodian: [121].

| | |
|---|--------------|
| Unpaid Loan Balance..... | \$233,643.66 |
| Total Collateral Pledged (Detail list of collateral and sub-collateral enclosed)..... | 446,000.00 |
| Collateral in Your Hands for Collection, etc., (List enclosed)..... | none |
| Funds Held in Suspense and Not Applied..... | none |
| Interest Paid..... | 23,350.48 |

Kindly check the above information with your records and certify to the correctness thereof by signing the enclosed copy of this

(Testimony of James B. Thompson.)

letter. Explain in detail any exceptions or differences noted."

A statement, Paradise Irrigation District, May 13, 1938, Unpaid Loan Balance, \$234,168.87; Total collateral pledged, \$447,000. "The above information is in agreement with our records," was received in evidence as Respondent's Exhibit 11.

A letter dated June 30, 1936, from the R. F. C. to Mr. Thompson was received in evidence as Respondent's Exhibit 12.

A letter of July 2, 1936 from the R. F. C. to Mr. Thompson was received in evidence as Respondent's Exhibit 13.

A letter of July 7, 1936, from Paradise Irrigation District to the R.F.C. was received in evidence as Respondent's Exhibit 14.

RESPONDENT'S EXHIBIT 14:

Respondent's Exhibit 14 was a letter dated July 7, 1936, from J. B. Thompson, Superintendent and Secretary of Paradise Irrigation District, to Frank J. Keenan, Chief of the Drainage, Levee and Irrigation Division of the R. F. C., and reading in part as follows:

"Answering your letter of June 30th. I am happy to say that Paradise Irrigation District easily made the interest payment which you kindly inquired about,

(Testimony of James B. Thompson.)

Unless something untoward occurs in economics worse than we have heretofore experienced, it is my belief that Paradise Irrigation District will be able to meet its future interest payments as has been done this time."

A letter from the R.F.C. to Mr. Thompson, sent [88] September 15, 1936, was received in evidence as Respondent's Exhibit 15.

A letter from Paradise Irrigation District to the R.F.C. dated January 15, 1937, was received in evidence as Respondent's Exhibit 16.

RESPONDENT'S EXHIBIT 16:

Respondent's Exhibit 16 was a letter dated January 15, 1937, from J. B. Thompson, Secretary of Paradise Irrigation District, to Frank J. Keenan, of the R. F. C., stating in part as follows:

"Paradise Irrigation District coupons as paid are pasted into a bond volume in which the bonds and serially numbered coupons are listed. In this way the coupons as rapidly as taken up by the District are evidenced as being paid.

July 1st, 1936, the treasurer, Mr. Clark, registered all the unpaid coupons of Paradise Irrigation District bonds and these have been disposed of in the manner outlined above. To make this record complete it occurred to Mr. Clark

(Testimony of James B. Thompson.)

that inasmuch as unmatured coupons have been registered on all the bonds, those previously registered and which might properly be termed as having been paid could for the sake of completing our record be also returned to this office." [122]

A letter from the R.F.C. to the Federal Reserve Bank, copy of letter February 25, 1937, was received in evidence as Respondent's Exhibit 17.

RESPONDENT'S EXHIBIT 17:

Respondent's Exhibit 17 was a letter dated February 25, 1937, from H. A. Mulligan, Treasurer of the Reconstruction Finance Corporation, directed to J. M. Osmer, Assistant Cashier, Federal Reserve Bank of San Francisco, reading in part as follows:

"You are hereby authorized to forward for cancellation a sufficient face amount of coupons of the earliest maturity dates to evidence interest payment due this Corporation January 1, 1937. In order to reflect a payment of less than the face amount of a given coupon, you should request the District Treasurer to make a credit notation on so many coupons as may be necessary, returning the coupons so endorsed to you. Such endorsed coupons, as collateral for this loan, shall be retained by you until fully paid."

(Testimony of James B. Thompson.)

A letter from the R.F.C. to the District on June 9, 1937, was received in evidence as Respondent's Exhibit 18.

A letter from the R.F.C. to the District, August 19, 1937, was received in evidence as Respondent's Exhibit 19.

RESPONDENT'S EXHIBIT 19:

Respondent's Exhibit 19 was a letter dated August 19, 1937, from the Reconstruction Finance Corporation to the Secretary of Paradise Irrigation District reading as follows:

"Our records indicate that \$29,000 of old bonds of the above district remain outstanding which have not been presented for refinancing.

We would greatly appreciate your advising us by return mail if possible, the names of the owners of any such bonds which have not been presented, and the amount of bonds held by each known owner."

A similar letter, dated August 21, 1937, was received in evidence as Respondent's Exhibit 20.

A letter, dated September 1, 1937, from the Paradise Irrigation District to the R.F.C. was received in evidence as Respondent's Exhibit 21.

(Testimony of James B. Thompson.)

RESPONDENT'S EXHIBIT 21:

Respondent's Exhibit 21 was a letter dated September 1st, 1937, from J. B. Thompson, Secretary of Paradise Irrigation District to the Reconstruction Finance Corporation, reading as follows:

"Answering your letter of August 18th, 1937. Your records indicating that \$29,000.00 of the original bond issues, Paradise Irrigation District, are outstanding, is correct. These bonds are represented by J. Rupert Mason, San Francisco, California.

The Board of Directors expect to take advantage of any refinancing possibilities that may be available under the new bankruptcy act."

A letter from the R.F.C. to the District, April 1, 1938, was received in evidence as Respondent's Exhibit 22.

The witness testified there was one one-thousand dollar bond that was acquired by the district during these refinancing proceedings with money supplied by the R.F.C.

The witness further testified that after the former bankruptcy proceeding had been terminated, Respondent J. R. Mason and his counsel came up to Paradise in the year 1936 to discuss payment of interest coupons of Mr. Mason and talked with the

(Testimony of James B. Thompson.)

witness and with Mr. Clark, who was the treasurer of the district. Mr. Mason made a threat of bringing an action to collect his interest, demanding that his coupons be paid. Subsequently, a large sum of interest was paid to Mr. Mason in two different payments. The amount so paid were as follows: \$1077.66 in November, 1936, and \$1958.29 in January, 1937. [89]

Thereupon, appellant and respondent showed a letter bearing the purported signature of W. S. Clark, Treasurer, to the witness, who identified the signature as that of Mr. Clark's, and the letter was then marked Respondent A for identification and was thereupon offered in evidence. Counsel for the District objected to it on the grounds that it was incompetent, irrelevant and immaterial and not binding upon the District, as to Mr. Clark's conclusion, he being the duly elected Treasurer, and could not bind the District. The court sustained the objection. Respondent Exhibit A for identification reads as follows:

(Testimony of James B. Thompson.)

"RESPONDENT A IDENT
7703 Paradise

Irrigation Districts Association of California
Member

Paradise Irrigation District
Comprising 11,250 acres of Orchard land on the
slopes of the Sierra Nevada Mountains in
Butte County

Paradise, California
November 18, 1936.

Mr. Coburn Cook
Berg Building

Turlock, California

Dear Mr. Cook:

Answering your letter of November 13th. You will appreciate, Mr. Cook, that the matter of withdrawing \$3911.22 from the District's funds without first giving the Board of Directors an opportunity to cooperate in such payment might be considered rather hasty. In as much as but two weeks remain until the next Board meeting, I am asking that you defer action until after that date.

I feel certain that there is no disposition on the part of the Board of Directors to with-hold from Mr. Mason that which is rightfully due him, now that the manner of settlement proposed last year is not possible. In any event I wish to acknowledge by this letter that I recog-

(Testimony of James B. Thompson.)

nize Mr. Mason's claim as a valid one in regard to the earlier registrations and have no disposition to cause you to bring action for collection. Funds are not now available to take care of the entire amount and I will be glad to have you advise me if payment of an amount as large as possible immediately after the Board meeting Tuesday, December 1st, will be acceptable. [90]

In the meantime let me assure you again that it is not necessary that legal action be brought to collect.

Yours very truly,

PARADISE IRRIGATION
DISTRICT

W. S. CLARK

Treasurer"

WSC:H

After that visit, which was along in November, 1936, the District and its officers made payments of interest to Mr. Mason. A first payment of \$1,077.66 and a second payment of \$1,958.29, the latter payment being made in January, 1937, as the witness recalls it. The payments were all made for interest coupons which matured prior to that date. Counsel stipulated that this was so.

(Testimony of James B. Thompson.)

On

Cross Examination

by counsel for petitioner, the witness testified: As to financial report made to the R.F.C. in 1935 under the title "Bonds authorized \$252,500," the bonds at that time were printed but not delivered. They had not been delivered up to March 6th, 1939, when the witness finished as secretary. The method of carrying the money that the R.F.C. paid out to get the bonds was provided in the contract of the R.F.C. Under that arrangement, the District only paid 4% to the R.F.C. on the money that the R.F.C. actually paid out to acquire the old bonds.

HOWARD S. CLEWETT

was recalled as a witness for respondent and testified: He was secretary for several years prior to and at the time the application was made to the R.F.C. for the loan, and also was attorney in the Bankruptcy proceeding until it was dismissed. Around \$3,700 was paid to the Bondholder's Committee to induce the committee to recommend acceptance of the settlement. The committee had certain coupons which had been deposited with it by bondholders for which it was acting, but it did not, itself, control any bonds. His recollection was that the coupons were for 1933 and 1934, and in answer to the [91]. question whether the coupons were turned in with the bonds or reattached to the bonds,

(Testimony of Howard S. Clewett.)

the witness answered that they were turned to the R. F. C. by the committee. The payment was made to the Committee based on a number of those coupons in lieu of paying the Committee any Bondholder's Committee expenses. The bondholders simply got \$525.21 plus interest at 4% per annum from July 1, 1934, except what they may have received from the Bondholder's Committee. The witness did not know what the Committee may have disbursed to the bondholders.

On

Cross Examination

by counsel for the District, the witness testified that the R. F. C. did not enter into the transaction of the payment of the \$3,700 at all, except that the R. F. C. knew the District was making the payment. The payment was made from the District funds and not from money obtained through the R.F.C.

It was stipulated that all bondholders, including Mr. Mason, got the \$10 on the July 1, 1934 coupon.

JAMES R. MASON,

Respondent, was called as a witness on his own behalf and testified: The claim of Mr. Mason, with notice to creditors which he received requiring him to file a claim was received in evidence as Respondent's Exhibit 23.

(Testimony of James R. Mason.)

RESPONDENT'S EXHIBIT 23:

Respondent's Exhibit 23 was the proof of claim of J. R. Mason, respondent, and attached thereto was the Notice to Creditors [123] given by the Paradise Irrigation District, stating that the petition of the District for composition of debts had been filed December 21, 1937, and further stating:

"The plan of composition materially affects the holders of all outstanding bonds and other securities of the district, as it will, if put into effect, require the holders of such indebtedness to surrender same and receive in exchange therefor in cash the sum of 52.521 cents for each dollar of the principal amount of their respective claims, exclusive of interest, with deductions for missing coupons as follows: for all appurtenant unpaid interest coupons maturing on or before July 1, 1934, which are missing, there shall be deducted from the amount payable on such bond 45.67 cents for each dollar of the face amount of such missing coupon, and for all appurtenant unpaid interest coupons maturing subsequent to July 1, 1934, which are missing, there shall be deducted from the amount payable on such bond the full face value of such coupon. Provided, however, that where deductions are made on account of missing coupons and such missing coupons are afterward presented for payment, the holders thereof shall

(Testimony of James R. Mason.)

be paid the sum deducted on account of the missing coupon."

"In the District Court of the United States, for the Northern District of the State of California.

No. 7703

In the Matter of Paradise Irrigation District,

PROOF OF CLAIM

J. R. Mason, being first duly sworn, says:

That he is a creditor of Paradise Irrigation District, the petitioner herein, and that he is the owner and holder of the following described bonds of said district, to-wit: bonds numbered 93, 94, 95, 96, 97, 170, 171, 257, 258, 293 of the first issue, and bonds numbered 23, 24, 25, 35, 36, 46, 47, 81, 82, 94, 95, 96, 97, 98, 106, 107, 108, 109, and 110 of the second issue, each of the par value and sum of \$1000.00; and that of said bonds some have matured, to-wit; bonds numbered 23, 24 and 25, in the principal sum of \$3000.00, which bonds matured July 1, 1937, and were presented for payment to the Treasurer of Paradise Irrigation District when they became due and payment demanded, and that the same are wholly unpaid and that the said matured bonds bear interest at the rate of 7% per annum from date of such presentation, and that said creditor has not been notified that funds are available for payment thereof; that

(Testimony of James R. Mason.)

each of said bonds bear interest at the rate of 6% per annum, evidenced by interest coupons payable on January 1st and July 1st of each year; that said J. R. Mason is the owner of all of the coupons attached to said bonds, of which coupons in the amount of \$3390.00 have matured and were presented to the treasurer for payment, together with interest thereon at the rate of 7% per annum from [124] date of presentation to date of payment; that affiant by this proof of claim does not submit himself to the jurisdiction of this court except for the special purpose of objecting to the jurisdiction of this court.

J. R. MASON

Subscribed and sworn to before me this 9th day of March, 1938.

(SEAL) **LESTER H. SHOCK**

Notary Public, Stanislaus County, California

This Exhibit 23, which is an approval of claim, sets forth Mr. Mason to be the owner of twenty-nine \$1,000 bonds, and at the time the claim was made there were 6% interest coupons, amounting to \$3,390, past due and unpaid. The witness testified he had regularly presented his past-due coupons to the treasurer for payment at the regular six-months period. They have not been paid but have been stamped by the treasurer as provided under Section

(Testimony of James R. Mason.)

52 of the California Irrigation District Act. He had never been notified that funds were available for payment of the coupons. The coupons so described were separate and apart from the interest coupons that were paid to Mason and which were [92] 1936 and prior years. To the best of the witnesses' recollection these coupons are those that matured in 1937, 1938 and partly 1936. A duplicate of an original document deposited with the Pacific National Bank was received in evidence as Respondent's Exhibit 24.

RESPONDENT'S EXHIBIT 24:

Respondent's Exhibit 24 was an escrow letter dated September 7, 1933, signed by J. R. Mason and directed to Pacific National Bank of San Francisco, reading as follows:

"At the request of the Paradise Irrigation District Bondholders Protective Committee I am enclosing herewith—Coupons No. 32 to 38, inclusive, from bonds of the First Issue, dated May 1, 1917, numbered as follows: 170, 171, 257, 258, 293.

Coupons No. 25 to 31, inclusive, from bonds of the Second Issue, dated July 1, 1920, numbered as follows: 23, 24, 25, 35, 36, 81, 82, 94, 95, 96, 97, 98, 106, 107, 108, 109, 110, xxx which coupons shall hereafter be subject to the order of the Paradise Irrigation District Bondholders Protective Committee."

(Testimony of James R. Mason.)

A letter that the witness received from Mr. Stephens of the Bondholders' Committee referring to the \$10 payment for July 1934 coupons was received in evidence as Respondent's Exhibit 25.

RESPONDENT'S EXHIBIT 25:

Respondent's Exhibit 25 was a letter dated January 13, 1934, from George Stephens, executive secretary of the Bondholders Protective Committee, directed to J. R. Mason, reading as follows:

"We have made an arrangement with the Paradise district for payment of \$10.00 per coupon for the July 1933 coupons. This, together with the sum of \$8.80 per coupon received from them for the January 1933 coupons, makes a total of \$18.80. The Committee's expenses to date are, roundly, \$5.80, and it is our plan to make a disbursement to bondholders of \$10.00 per \$1000 bond. In pursuance with our letter to you of September 7, will you please signify your approval of the attached copy of this letter of relinquishment to the District of your July 1933 coupons deposited with us?" [125]

The bondholders, including the witness, consented to compromise of the ordinary interest on the coupons. Five years' coupons were on deposit with the committee, the witnesses' recollection being that they are the coupons for 1933 to 1938. George

(Testimony of James R. Mason.)

Stephens, secretary of the Bondholders' Committee, told the witness that over 90% of the bondholders had deposited their coupons with the committee. The committee was authorized to establish whatever, determined upon an investigation, might be reasonable as an interest rate to be paid to the bondholders.

HOWARD S. CLEWETT

was recalled as a witness for petitioner and testified: The arrangement with the Bondholders' Committee was that it would accept a reduction in interest up until some refinancing program could be agreed upon but only for two years. The initial term was not to exceed two years, but if during that time a refinancing program was agreed upon, we would go ahead with the plan; if not, he might endeavor to get a further extension. The number of coupons which the committee held was the means of determining how much should be paid to induce them to recommend acceptance of this settlement.

[93]

[Title of District Court and Cause.]

STIPULATION.

It Is Hereby Stipulated that the foregoing constitutes a full, true and correct condensed statement in narrative form of all of the testimony in

said cause including admissions, concessions and stipulations of counsel, and designations of exhibits, and also is a correct statement of essential motions, rulings, and proceedings of the court prior to submission of the cause, and as such the same may be designated and used as a part of the record on appeal in said cause in lieu of the testimony of witnesses in question and answer form and the setting out at length of admissions, concessions and stipulations of counsel and motions, rulings and proceedings covered.

It Is Further Stipulated that the several exhibits offered by the respective parties and received by the court or pertinent parts thereof may be set forth in an Appendix to the foregoing condensed statement or summarized therein and that such stipulations, extracts or condensations shall be by the printer, under the direction of the Clerk of the Court, inserted in the foregoing narrative statement at the appropriate places so as to produce when printed a complete and comprehensive [94] statement of all the evidence offered or received at the hearing on the petition herein.

Dated: July 28, 1941.

W. COBURN COOK,

Attorney for Appellant,

JEROME D. PETERS,

Attorney for Appellee.

[Endorsed]: Filed Sept. 23, 1941. Walter B.
Maling, Clerk. [95]

**CERTIFICATE OF CLERK U. S. DISTRICT
COURT TO TRANSCRIPT ON APPEAL.**

I, Walter B. Maling, Clerk of the United States District Court for the Northern District of California, do hereby certify that the foregoing 125 pages, numbered from 1 to 125, inclusive, contain a full, true and correct transcript of certain records and proceedings in the matter of the Paradise Irrigation District, No. 7703, as the same now remain on file and of record in this office; said transcript having been prepared pursuant to and in accordance with the Designation and Counter Designation of Portions of Record on Appeal and Stipulation, copies of which are embodied herein.

I further certify that the cost of preparing and certifying the foregoing record on appeal is the sum of Twenty-two and 55/100 (\$22.55), and that the same has been paid to me by the attorney for the appellant herein.

In witness whereof, I have hereunto set my hand and the official seal of said District Court, this 26th day of September, A.D. 1941.

WALTER B. MALING, Clerk
By F. M. LAMPERT
Deputy Clerk [126]

[Endorsed]: No. 9925. United States Circuit Court of Appeals for the Ninth Circuit. J. R. Mason, Appellant, vs. Paradise Irrigation District, Appellee. Transcript of Record. Upon Appeal from the District Court of the United States for the Northern District of California, Northern Division.

Filed September 27, 1941.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

In the United States Circuit Court of Appeals for
the Ninth Circuit

No. 9925

J. R. MASON,

Appellant,

vs.

PARADISE IRRIGATION DISTRICT,
Appellee.

DESIGNATION OF RECORD FOR PRINTING

The appellant designates the following as those parts of the record as necessary for the consideration of the points upon which the appellant intends to rely in this appeal and for printing, to wit:

The entire record on appeal, consisting of Transcript pages 1 to 126, inclusive, except omit the following: Omit pages 20, 49, 50 and 57 (affi-

davits of service); omit pages 23, 24, 25 (minutes of the court); omit waiver, page 61; omit stipulations, pages 62 and 64.

Dated: October 6, 1941.

W. COBURN COOK

Attorney for Appellant.

[Title of Circuit Court of Appeals and Cause.]

STATEMENT OF POINTS ON WHICH APPELLANT INTENDS TO RELY ON APPEAL

The appellant adopts as the points on appeal on which he intends to rely the statement of points appearing in the transcript, these points having been designated and filed in the District Court.

Dated: October 6, 1941.

W. COBURN COOK

Attorney for Appellant.

[Title of Circuit Court of Appeals and Cause.]

AFFIDAVIT OF SERVICE BY MAIL

State of California

County of Stanislaus—ss.

E. Julien, being first duly sworn, says: That she is a citizen of the United States, residing in the City of Turlock, Stanislaus County, California, where the mailing hereafter referred to took place;

that she is over the age of 21 years and not a party to the above entitled cause; that on the 7th day of October, 1941, she deposited in the U. S. Post Office at Turlock, California, a true copy of the Designation of Record for Printing and Statement of Points on which Appellant Intends to Rely on Appeal, the original of which is hereunto affixed, enclosed in a sealed envelope with postage thereon fully prepaid, addressed to Mr. Jerome D. Peters, 304 Broadway, Chico, California, the attorney of record for the above named appellee: That there is regular communication by mail between the place of mailing and the place so addressed.

E. JULIEN

Subscribed and sworn to before me this 7th day of October, 1941.

(Seal) **GILBERT MOODY**

Notary Public in and for the County of Stanislaus,
State of California.

[Endorsed]: Filed Oct. 8, 1941. Paul P. O'Brien,
Clerk.

[Title of Circuit Court of Appeals and Cause.]

DESIGNATION OF APPELLEE OF ADDITIONAL PARTS OF RECORD FOR PRINTING

The appellee designates the following as additional parts of the record as necessary for the consideration of the points upon which the appellee intends to rely in this appeal for printing, to wit:

The stipulated "Narrative Statement of Facts," and the stipulated "Summary of Exhibits."

Dated: October 10, 1941.

JEROME D. PETERS

Attorney for Appellee

[Endorsed]: Filed Oct. 13, 1941. Paul P. O'Brien,
Clerk.